



**U.S. Agency for International Development (USAID)
Bureau for Global Programs, Field Support and
Research Center for Environment;
Office of Energy, Environment and Technology;
and USAID/Mexico**

**In collaboration with:
Comisión Federal de Electricidad (CFE)
Comisión Reguladora de Energía (CRE)
Secretaría de Energía (SENER)**

Handbook on Legal Issues —Project Development— Mexican Electric Sector

August 2001

**Prepared by:
Prime Contractor: Nexant Inc
Subcontractor: Eenergy International Corporation
Contract Number: LAG-I-00-98-00006, Task Order 5**

TABLE OF CONTENTS

Acknowledgments	vii
Executive Summary	viii
Acronyms and Terminology	xi
Terminology of Permitting Activities	xi
List of Acronyms	xii
Foreword	xvi
PART A: INTRODUCTION TO THE LEGAL HANDBOOK	1
A.1. Who Should Use This Handbook	1
A.2. How to Use This Handbook	2
A.3. Structure of the Handbook	3
<i>Part B: Procedures and Obligations</i>	3
<i>Part C: Issues of Interest for Potential Bidders</i>	4
<i>Part D: Review of Basic Legislation</i>	4
<i>Appendices</i>	4
<i>Annex to the Handbook</i>	5
PART B: REGULATORY PROCESS	7
B.1. Permitting and Legal or Administrative Steps	7
B.1.1. <i>Critical Path Diagrams and Commentary Annotations</i>	7
B.1.2. <i>Critical Path for the Granting and Modifying of Electricity Generation Permits</i>	8
B.1.3. <i>Critical Path for the Transfer of Electricity Permits</i>	17
B.1.4. <i>Self-supply</i>	21
B.1.5. <i>Cogeneration</i>	25
B.1.6. <i>Independent Power Producer</i>	30
B.1.7. <i>Small Production Projects</i>	34
B.1.8. <i>Importing</i>	36
B.1.9. <i>Exporting</i>	43
B.1.10. <i>Critical Path for CRE Gas Transmission and Storage Permits</i>	47
B.1.11. <i>Critical Path for CRE Permit for Self-use of Natural Gas</i>	54
B.1.12. <i>Time Requirements for Permits</i>	62
B.1.13. <i>Estimated Cost of Obtaining Required Permits</i>	64
B.1.14. <i>Critical Path for Bidding and Bid Proposal Development</i>	65
B.1.15. <i>Matrix of Permitting Requirements</i>	72
B.2. Legal or Administrative Obligations of Recipients of Permits, Licenses and Registrations or Other Administrative Procedures	77
B.2.1. <i>Federal Authorities with Jurisdiction in Permitting and Administrative Processes</i>	77

B.2.2.	<i>State and Municipal Authorities with Jurisdiction in Permitting and Administrative Processes</i>	85
B.3.	Obligations and Requirements when Implementing Model Private Project Types in Mexico	87
B.3.1.	<i>Generation (BOO Contracts and Privately Developed Projects)</i>	87
B.3.2.	<i>Generation (BLT Contracts)</i>	112
B.3.3.	<i>Financed Public Works</i>	118
B.3.4.	<i>Fuel Supply Issues</i>	132
B.3.5.	<i>Rules Governing Joint Ventures between Private Companies and Parastatal Companies (CFE, LyFC)</i>	134
PART C:	ISSUES OF INTEREST FOR BIDDERS	137
C.1.	Independent Producer Projects	137
C.1.1.	<i>Possibility of Expediting Works and Its Consequences</i>	137
C.1.2.	<i>Fundamental Criteria for the Application of Penalties</i>	137
C.1.3.	<i>Risks in Obtaining Permits for Both Parties (Bidders and CFE)</i>	138
C.1.4.	<i>Issues Related to Percentage on Integration of National Goods and Services</i>	138
C.1.5.	<i>Problems Related to the Plant Site</i>	139
C.1.6.	<i>Formulas for Setting the Value of the Plant in Case of Termination of the Contract</i>	139
C.1.7.	<i>Issues Related to Force Majeure and Political Risk</i>	141
C.1.8.	<i>Consequences of Changes in the Mexican Electricity Sector or in CFE</i>	141
C.1.9.	<i>Fuel Issues: Price, Supply and Fuel Supply Contract</i>	141
C.1.10.	<i>Issues Related to Additional Capacity</i>	142
C.2.	Publicly Financed Turn-key Projects	142
C.2.1.	<i>Issues Related to Long-term Financing</i>	142
C.2.2.	<i>Lack of Sufficient Time to Obtain Financing</i>	142
C.2.3.	<i>Issues Related to the Unit Price Contract</i>	142
C.2.4.	<i>Issues Related to Guarantees</i>	143
C.2.5.	<i>Difference in the Criteria with Regard to Risks Derived from a Precise Legal Framework</i>	143
C.2.6.	<i>Issues Regarding Contracts with SUTERM</i>	143
PART D:	REVIEW OF BASIC LEGISLATION	145
D.1.	Purpose	145
D.1.1.	<i>Political Constitution of the United Mexican States</i>	147
D.1.2.	<i>Law on Public Service of Electric Energy</i>	148
D.1.3.	<i>Regulations of the Law on Public Service of Electric Power</i>	149
D.1.4.	<i>Regulations of the Law on Public Service of Electric Power Regarding Contributions</i>	151
D.1.5.	<i>Natural Gas Regulations</i>	154

D.1.6. <i>Law of the Energy Regulatory Commission</i>	156
D.1.7. <i>Regulations on Dispatch and Operation of the National Electric System</i>	157
D.1.8. <i>Federal Law of Parastatal Entities</i>	158
D.1.9. <i>Law on Public Works and Related Services</i>	160
D.1.10. <i>Law on Budgets, Accounting, and Federal Public Spending and General Law on Public Debt</i>	162
D.1.11. <i>Regulations on Projects of Long-term Execution Finance with Budgetary Resources</i>	164
D.1.12. <i>Law on Procurement, Leasing, and Public Sector Services</i>	164
D.1.13. <i>Organic Law of the Federal Public Administration</i>	165
D.1.14. <i>General Law on Mercantile Corporations</i>	166
D.1.15. <i>Law on Foreign Investments</i>	168
D.1.16. <i>Commercial Code</i>	169
D.1.17. <i>General Law on Securities and Credit Operations</i>	169
D.1.18. <i>Monetary Law of the United Mexican States</i>	171
D.1.19. <i>Federal Law on Economic Competition</i>	172
D.1.20. <i>General Law on Ecological Equilibrium and Environmental Protection</i>	173
D.1.21. <i>North American Free Trade Agreement</i>	175
D.1.22. <i>Agrarian Law</i>	178
D.1.23. <i>Overview or Relevant State and Municipal Legislation</i>	180
D.1.24. <i>Prospective for the Electric Sector</i>	181
D.1.25. <i>Forestry Law</i>	182
D.1.26. <i>Federal Law on Fees</i>	183
D.1.27. <i>Implementing Legislation for the Forestry Law</i>	184
D.1.28. <i>Rulemaking Related to the General Law on Ecological Equilibrium and Environmental Protection</i>	185

Appendices

Appendix 1: Organizational Charts of Mexican Government Agencies	189
Appendix 2: Directory of Mexican Government Agencies	197
Appendix 3: Key Interviews	207

List of Figures

Figure 1: How to Use This <i>Handbook</i>	2
Figure 2: Critical Path for <i>CRE</i> Generation, Export and Import Permits	11
Figure 3: Procedure to Transfer Electricity Permits	19
Figure 4: Particular Requirements Self-supply	23
Figure 5: Particular Requirements for Cogeneration	27

Figure 6: Particular Requirements for Independent Production	31
Figure 7: Particular Requirements for Small Production	37
Figure 8: Particular Requirements for Importing	41
Figure 9: Particular Requirements for Exporting	45
Figure 10: Critical Path for <i>CRE</i> Natural Gas Transportation Permits	49
Figure 11: Procedures for Granting, Modifying and Transferring Permits for Self-use of Natural Gas	57
Figure 12: Critical Path for Bid Preparation, Submission and Review	68
Figure 13: Operational Diagram for <i>IPP</i> Generation Projects (<i>BOO</i> Contracts)	88
Figure 14: Operational Diagram for <i>BOOT</i> Contracts	103
Figure 15: Operational Diagram of the General Characteristics of <i>BLT</i> Contracts	114
Figure 16: Operational Diagram for Financed Public Works	119

List of Tables

Table 1: Time Required for the Granting of Electricity Generation Permits	62
Table 2: Time Required for the Transfer of Electricity Generation Permits	63
Table 3: Time Required for the Granting of General Natural Permits	63
Table 4: Time Required for the Granting or Transfer of Self-use Natural Gas Permits	64
Table 5: Matrix of Permitting Requirements	65
Table 6: Fees for <i>CRE</i> Electric Generation Permits	66
Table 7: Matrix of Permitting Requirements	74
Table 8: Matrix of Laws and Relevance to Project Types	186

ACKNOWLEDGMENTS

The preparation of this *Handbook* involved many individuals from the public and private sectors in the United States and Mexico, including officials in two administrations of Mexico's federal government.

Two officials in the administration of President Ernesto Zedillo played a special role in initiating this project: Jorge Chávez Presa, Undersecretary of Energy—now a federal deputy in Mexico's Congress—provided the initial support needed to begin work, and Eduardo Flores-Magón, in the Office of Planning at the Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*), was instrumental in conceiving the project and completing the document. Eduardo Arriola, Senior Vice President at *CFE*, and Eugenio Laris, Vice President for Financed Projects, were also supportive of the project, while Humberto López and Sergio Palafox provided detailed comments. At the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or *CRE*), Elizabeth Fortoul, Alejandro Peraza, Carlos Muñoz and Francisco Granados all provided invaluable assistance, with support from Héctor Olea, President of the Commission, and his successor, Dionisio Pérez-Jacome. Finally, Fernando Alonso, Director of the Investment Promotion Office of the Secretariat of Energy in the administration Vicente Fox, as well as his predecessor, Dionisio Pérez-Jacome, with the support of Lourdes Melgar of the Office of International Affairs, ensured the team access to materials and input, which was provided by Saúl Feder, Alejandro Cuevas, Ricardo Calvo and Enrique Portes.

In the private sector, Eduardo Andrade of AMEE arranged for a review committee in Mexico including Ramón Rodríguez of AES México, Cintia Angulo of Electricité de France, Cynthia Bouchot of Unión Fenosa, along with Robert Pérez and José Manuel Muñoz of El Paso Energía México. Jeff Humber helped organize the U.S. review team, consisting of Derek Stilwell of Calpine and Jeff Harris of Public Service of New Mexico.

Finally, the U.S. Agency for International Development (USAID) Mission Director Paul White in Mexico City and Energy Advisor Jorge Landa provided support and commentary and assisted with communications with key Mexican institutions, and USAID's Office of Energy, Environment and Technology provided invaluable support and feedback in Washington, D.C.

EXECUTIVE SUMMARY

The genesis of this *Handbook* comes from concerns expressed by U.S. project developers active in Mexico and the Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*) during recent discussions. It appears that interested developers are unclear about the regulatory framework of the Mexican electric sector and the numerous aspects of the legal requirements for securing permission to build and operate power stations and transmission lines. Areas of concern range from the types of electricity projects allowed in Mexico to the procedures applied to bids to sell power to *CFE* under long-term Power Purchase Agreements (*Contrato de Compra-Venta de Energía*, or *PPA*) and other contract types. Moreover, the rules governing various aspects of the project development process—from bidding requirements to the obligations of electric generation and transmission line permit holders—have recently changed.

Since 1997, an average annual gross domestic product growth of 5 percent has been fueling tremendous growth in peak demand and electricity consumption. Even the most conservative projections of new capacity requirements call for 9 percent annual growth in capacity through 2010. Due to significant financial constraints, *CFE* does not have the financial capability to make the requisite investments in electricity generation or transmission lines, which is estimated at US\$20 billion and US\$9 billion respectively. Private developers and investors are the only solution to make up the shortfall.

Recognizing the need for private participation in generation and transmission projects, Mexico's government modified the Law on Public Service of Electric Energy (*Ley del Servicio Público de Energía Eléctrica*, or *LSPEE*), which permits four types of private generation (independent production, cogeneration, self-supply and small-scale production), along with provisions for private export and import of power. However, despite some development and new investment under these headings, expansion of the electric system has not kept pace with demand.

The intention of this *Handbook* is to serve as an authoritative resource on the full extent of regulatory requirements for electricity generation and transmission projects in Mexico. The *Handbook* highlights the relevant laws and agencies that compose the regulatory framework of the electricity sector, clarifies the impact of recent regulatory changes, assists users to understand the process of securing permits from the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or *CRE*) for electricity projects, clarifies the obligations of those permit holders and generally provides answers to some of the most pressing questions of investors and developers alike.

The objective of this *Handbook* is to describe the current regulatory and legal framework of the electricity sector in Mexico. In 1993, modifications were made to the

LSPEE that changed Mexico's regulatory structure and opened the sector to private participation in generation and nongrid connected transmission. Some additional, but limited, modifications have been implemented, mostly involving the contractual arrangements governing privately financed and constructed plants. Even though *CRE* has prepared Internet-accessible documentation on the electricity permit requirements, potentially interested developers from the United States have expressed interest in comprehensive and centralized information detailing all legal issues relevant to the Mexican electricity sector. In response, the present *Handbook* will serve as a reference resource to inform project developers and investors of the latest requirements and regulations for investing in electricity generation and transmission projects.

To provide information useful to developers and investors in the Mexican electric energy sector, this *Handbook* offers the following:

- ◆ A review of relevant legislation.
- ◆ A description of the permits and procedures required by the Mexican Government.
- ◆ An explanation of the obligations of permit holders and the federal authorities with jurisdiction over the permitting processes.
- ◆ A description of the types of electricity projects allowed and the contractual arrangements observed for those projects in Mexico.
- ◆ A brief discussion of other relevant topics that may be of interest to an investor or developer.

This *Handbook* will enable companies to determine what permits or licenses are needed and what actions must be carried out to comply with the laws and regulations of the electricity sector.

This *Handbook* has been designed for use as a reference resource. As a result, every effort has been made to facilitate the identification and review of specific sections of the document. In addition, every effort has been made to provide all relevant information in each of the segments of the *Handbook* to minimize, but not eliminate, the need for laborious cross-referencing.

The first-time reader should initially consult the Introduction for an explanation of the contents and structure of the *Handbook*. The rest of the *Handbook* is tabbed on three general sets of issues: procedures and obligations of permit and contract holders (Part B); selected issues of interest for bidders (Part C); and review of basic legislation (Part D). While a review of Part D is certainly recommended—especially for the reader not familiar with Mexico's governmental institutions—it is not necessary for understanding the material in Parts B and C.

This *Handbook* is not meant to be an exhaustive reference source; it provides the reader with a comprehensive look at the regulations governing the electric sector

in Mexico, as well as all the activities that would be required in the development and construction of electricity generation and transmission projects. In cases where more detailed data may be required, references guide the reader to the Annex at the end of this document or to other information sources.

This *Handbook* was prepared by the United States Agency for International Development (USAID) as part of the Policy and Regulatory Support in Electric Sector and Support for Clean Technologies Deployment Program. Production included consultation with the Secretariat of Energy, *CFE*, the Energy Regulatory Commission (Comisión Reguladora de Energía, or *CRE*), and the Secretariat of Environment and Natural Resources (Secretaría del Medio Ambiente y Recursos Naturales, or *SEMARNAT*).

This *Handbook* was prepared by Nexant LLC and subcontractor Eenergy International Corporation in Mexico City and Washington, D.C. Mexican attorney Pedro Enrique López Gutiérrez also participated in the execution of this project.

The team used three principal sources of information for the preparation of this *Handbook*:

- ◆ Interviews with government officials. Interviews with officials at *CFE*, *SE*, *SEMARNAT* and other federal, state and municipal agencies were the primary means of gathering the information compiled in this *Handbook*. A list of the individuals with whom interviews were held is included in Appendix 3 to this *Handbook*.
- ◆ Publicly available documents and forms. All of the documentation presented in the Annex to this *Handbook* was gathered directly from the agencies contacted by the team, either in printed form or through the Internet pages of those agencies.
- ◆ Other documentation. Other materials, such as bid documents intended for the use of participants in international tenders by *CFE* for the construction and operation of generation stations, were obtained from the relevant agencies.

ACRONYMS AND TERMINOLOGY

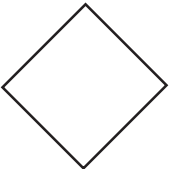

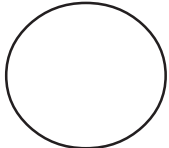
Terminology of Permitting Activities

The terms employed by different agencies in Mexico are not necessarily consistent, and may be rendered in several different ways in English. In the interest of consistency and ease of evaluation, the following terms have been selected for use in this *Handbook*. In the Critical Path Diagrams and accompanying annotations, the following terms are used:

Application	Most commonly <i>solicitud</i> . Document prepared by the developer, including statements and other supporting materials, and submitted to a government agency or other institution as part of an administrative procedure.
Certificate	Variouly referred to as a <i>certificado</i> or <i>constancia</i> . Document received by the developer containing results of a laboratory test, inspection, review or other independent measurement or verification performed for an entity seeking a permit, and in accordance with specified regulations, as a prerequisite for the completion of an administrative process for issuing a permit, concession or other form of authorization.
Concession	Generally, <i>concesión</i> or <i>asignación</i> . Document received by the developer that gives the holder right to use a water resource, land, installation or other asset that is legally property of the federal government or an <i>ejido</i> (communal landholding).
Filing	Often referred to as <i>registro</i> . Documents presented by the developer to a government agency to inform that agency of compliance with a regulation, provide relevant contact information or notify the agency of a change in activities.
Permit	Includes terms <i>permiso</i> , <i>resolución</i> , <i>cédula</i> , <i>licencia</i> and <i>autorización</i> . Document received by the developer from a government agency that contains a ruling or authorization, with or without instructions or special conditions, for the permit holder to undertake a specified activity for a specific period of time.
Receipt	Includes the terms <i>recibo</i> and <i>constancia de pago</i> . Document received by the developer from the cashier's office or similar area of a government agency that confirms receipt of payment of fees, fines or other monetary obligations required from the receipt holder for completing a permit, inspection, review or other administrative procedure.

Right of Way	Usually <i>derecho de vía</i> or <i>derecho de paso</i> . Document received by the developer from an agency of the federal, municipal or state government, or a private entity or <i>ejido</i> , extending the right to construct a gas or other fuel pipeline, water pipeline, road or electricity transmission line across a specific area of land, waterway, road, railroad or maritime area.
Statement	Variouly referred to as <i>manifestación</i> , <i>declaración</i> or <i>informe</i> . Documents presented by the developer to a government agency as part of an administrative procedure that contain specific information regarding the developer’s compliance, or planned compliance, with regulations.
Title	Variouly referred to as <i>escritura</i> or <i>título de propiedad</i> . Document received by the developer as part of the acquisition or purchase of property that describes the specific attributes of that asset and establishes the legal right of the titleholder to that property.

Index of Graphic Conventions

	Decision Point: Developer must decide on subject identified in text inside the triangle.
	Administrative Procedure: Developer must complete activity identified inside the box.
	Administrative Response: Receipt of formal communication from a government agency.

List of Acronyms

Alternative Site	Site other than the optional site (<i>Sitio distinto al opcional</i>)
APF	Mexico’s Federal Government (<i>Administración Pública Federal</i>)
APP*	Accident Prevention Program (<i>Programa de Prevención de Accidentes</i>)
BLT	Build-Lease-Transfer (<i>Construir-Arrendar-Transferir</i>)

BOO	Build-Own-Operate (<i>Construir-Poseer-Operar</i>)
BOOT	Build-Own-Operate-Transfer (<i>Construir-Poseer-Operar-Transferir</i>)
CENACE	National Electric Control Center (<i>Centro Nacional de Control de Energía</i>)
CFC	Federal Competition Commission (<i>Comisión Federal de Competencia</i>)
CFdC	Fixed Capacity Charges (<i>Cargos Fijos de Capacidad</i>)
CFE	Federal Electricity Commission (<i>Comisión Federal de Electricidad</i>)
CNA	National Water Commission (<i>Comisión Nacional del Agua</i>)
COA	Annual Operations Certificate (<i>Cédula de Operación Annual</i>)
CONAE	National Commission for Energy Conservation (<i>Comisión Nacional para el Ahorro de Energía</i>)
CRE	Energy Regulatory Commission (<i>Comisión Reguladora de Energía</i>)
DF	Confirmation of Water Availability Dictamen de Factabilidad
DGFDFSFS	Office of Federalization and Decentralization of Forest and Land Services (<i>Dirección General de Federalización y Descentralización de Servicios Forestales y de Suelo</i>)
DGIRA	Office of Environmental Impact and Risk (<i>Dirección General de Impacto y Riesgo Ambiental</i>)
DGMIC	Office of Integrated Pollutant Management (<i>Dirección General de Manejo Integral de Contaminantes</i>)
DO(F)	Official Daily of the Federation (Federal Register) (<i>Diario Oficial de la Federación</i>)
DPW	Department of Public Works (or similar name) (<i>Departamento de Obras Públicas [o similar]</i>)
EIA	Environmental Impact Assessment (<i>Evaluación de Impacto Ambiental</i>)
ER	Risk Study (<i>Estudio de Riesgo</i>)
ETJ	Technical Justification Study (<i>Estudio Técnico-Justificativo</i>)
FNM (FF.CC.)	Mexican National Railways (also FF.CC. for Railways) (<i>Ferrocarriles Nacionales Mexicanos, also Ferrocarriles</i>)
ICC	International Chamber of Commerce
INE	National Ecology Institute (<i>Instituto Nacional de Ecología</i>)

IP	Preventative Notice (<i>Informe Preventivo</i>)
IPP	Independent Power Producer (<i>Productor Independiente de Energía</i>)
ISP	International Stand-by Practices (<i>Prácticas Internacionales referentes a Cartas de Crédito</i>)
LAP	Public Acquisition Law
LAU	Comprehensive Environmental License (<i>Licencia Ambiental Única</i>)
LFCE	Federal Law on Economic Competition (<i>Ley Federal de Competencia Económica</i>)
LFEP	Federal Law on Parastatal Enterprises (<i>Ley Federal de Entidades Paraestatales</i>)
LGEEPA	General Law of Ecological Equilibrium and Environmental Protection (<i>Ley General del Equilibrio Ecológico y la Protección al Ambiente</i>)
LOPSR	Law on Public Works and Related Services (<i>Ley de Obras Públicas y Servicios Relacionados con las Mismas</i>)
LSPEE	Law on Public Service of Electric Energy (<i>Ley del Servicio Público de Energía Eléctrica</i>)
LyFC/LFC	Central Light and Power (state-owned distribution company) (<i>Luz y Fuerza del Centro</i>)
MIA	Environmental Impact Statement (<i>Manifiestación del Impacto Ambiental</i>)
NAFTA	North American Free Trade Agreement (<i>Tratado de Libre Comercio de América del Norte</i>)
NOM	Official Mexican Standard (<i>Norma Oficial Mexicana</i>)
NYMEX	New York Mercantile Exchange
OPF	Publicly Financed Turn-key Projects (<i>Obra Pública Financiada</i>)
Optional Site	Optional Site (<i>Sitio opcional</i>)
PAC	Accident Response Plan (<i>Plan de Atención a Contingencias</i>)
PEMEX	Mexico's national oil company (<i>Petróleos Mexicanos</i>)
PGPB	PEMEX Gas and Basic Petrochemicals (division of PEMEX) (<i>PEMEX Gas y Petroquímica Básica</i>)
PIDIREGAS	Projects of Long-Term Execution Financed with Budgetary Resources (<i>Proyectos de Infraestructura Productiva a Largo Plazo</i>)
PPA	Power Purchase Agreement (<i>Contrato de Compra-Venta de Energía</i>)

PROFEPA	Office of the Attorney General for Environmental Protection (Procuraduría Federal para la Protección al Ambiente)
RDA	Registry of Water Rights (<i>Registro de Derechos de Agua</i>)
RFN	National Forest Inventory (<i>Registro Forestal Nacional</i>)
SCT	Secretariat of Communications and Transportation (<i>Secretaría de Comunicaciones y Transportes</i>)
SE	Secretariat of Economy (formerly Commerce and Industrial Development) (<i>Secretaría de Economía [anteriormente, Comercio y Fomento Industrial]</i>)
SECODAM	Secretariat of [Financial] Control and Administrative Development (<i>Secretaría de Controloría y Desarrollo Administrativo</i>)
SEDENA	Secretariat of National Defense (<i>Secretaría de la Defensa Nacional</i>)
SEMARNAP	Secretariat of Environment, Natural Resources and Fisheries (1995–2000) (<i>Secretaría de Medio Ambiente, Recursos Naturales y Pesca [1995–2000]</i>)
SEMARNAT	Secretariat of Environment and Natural Resources (2001–) (<i>Secretaría de Medio Ambiente y Recursos Naturales [2001–]</i>)
SEN	National Electric System(<i>Sistema Eléctrico Nacional</i>)
SENER	Secretariat of Energy (<i>Secretaría de Energía</i>)
SG	Secretariat of the Interior [Internal Rule] (<i>Secretaría de Gobernación</i>)
SHCP	Secretariat of Finance and Public Credit (<i>Secretaría de Hacienda y Crédito Público</i>)
SIN	National Interconnected System(<i>Sistema Interconectado Nacional</i>)
SPC/SPE	Special Purpose Corporation (<i>Sociedad de Propósito Específico</i>)
SS	Secretariat of Health (<i>Secretaría de Salud</i>)
STPS	Secretariat of Labor and Social Security (<i>Secretaría de Trabajo y Seguridad Social</i>)
SUTERM	Union of Electric-Sector Workers of the Mexican Republic (<i>Sindicato Unico de Trabajadores Electricistas de la República Mexicana</i>)
VAT/IVA	Value Added Tax (<i>Impuesto de Valor Agregado</i>)

* APP is used in English to avoid confusion with PPA, Power Purchase Agreement. All other abbreviations in the English version are the same as the Spanish acronym in an effort to maintain consistency.

FOREWORD

The objective of this *Handbook* is to record the current permitting and regulatory requirements for new electric generation and transmission projects in a user-friendly format that serves as a reference and management tool for companies active in Mexico's electric sector.

As such, this *Handbook* is part of the long-standing and fruitful collaboration between the U.S. Agency for International Development (USAID) and the electricity sector in Mexico on a range of issues, including regulatory matters. A 1997 study on cross-border interconnection issues¹ prepared by USAID, Mexico's Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*) and the Salt River Project Agricultural Improvement and Power District in Phoenix, Arizona, addressed the regulatory issues in the United States and Mexico shaping the development of cross-border electric transmission infrastructure.

In the 2 years following publication of that study, Mexico's electric sector experienced increasing private sector activity, largely driven by accelerating requirements at *CFE* for new generation capacity. In discussions with private developers in Mexico, as well as officials at *CFE*, it was apparent that private developers from foreign countries needed a comprehensive source of information on the regulatory requirements for new generation and transmission facilities in Mexico. The requirements and limitations affecting private sector activities, as well as Mexico's state-owned utilities, were a constant source of inquiries at *CFE* and the Secretariat of Energy (*Secretaría de Energía*, or *SENER*).

In 1999, Undersecretary of Energy Jorge Chávez Presa, as well as officials at *CFE*, suggested that USAID prepare a guide on legal issues surrounding the development of generation and transmission projects in Mexico. The *Handbook* would be accompanied by a separate document on environmental permitting issues. In October 2000, USAID began work on this *Handbook* in collaboration with several agencies. In particular, USAID's team consulted with the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or *CRE*), the Office of Investment Promotion of *SENER*, and the National Commission for Energy Conservation (*Comisión Nacional para el Ahorro de Energía*, or *CONAE*), as well as *CFE*. As part of the work on the companion environmental permitting handbook, the team worked closely with the National Institute of Ecology (*Instituto Nacional de Ecología*, or *INE*), the National Water Commission (*Comisión Nacional del Agua*, or *CNA*), and the Office of Soil Recovery and Conservation (*Dirección General de Federalización y Descentralización de Servicios Forestales y de Suelo*, or *DGFDSFS*), all of which were part of Secretariat of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*, or *SEMARNAT*).

¹ USAID, SRP and CFE, Study on Legal and Regulatory Factors Affecting Cross-Border Trade in Electricity between Mexico and the United States (Washington, DC: USAID, January 1997).

A preliminary draft of the document completed in February 2001 was circulated to *SENER*, *SEMARNAT*, *CFE* and a private sector review committee. The review committee incorporated representatives of six companies active in Mexico's electric sector and a law firm: AES México, Electricité de France, Spain's Unión Fenosa, El Paso Energía México, Public Service of New Mexico, Calpine, and the law office Vera, Burguete y Celis. In addition to comments from this review committee, the USAID team received comments from *CFE*, *CRE* and *SEMARNAT*.

The present version of the *Handbook* reflects all comments received from these reviewers, and to the greatest extent possible the administrative changes implemented by the administration of President Vicente Fox with the publication of the new internal regulation of *SEMARNAT* on June 4, 2001. However, given the fact that some details of these administrative changes were not available at the time of publication, and still others may be issued in the future, discrepancies between the procedures described here and actual requirements will inevitably appear. As a result, this *Handbook* is necessarily a work in progress and will require periodic updating. In addition, the reader is cautioned that the material presented in this *Handbook* cannot be construed as constituting formal directions by the regulatory agencies cited here, nor can USAID be held liable for the consequences of any action or inaction on the part of users of this *Handbook*.

PART A: INTRODUCTION TO THE LEGAL HANDBOOK

In the last 8 years—and most significantly in 1993 when modifications to the Law on Public Service of Electric Energy (*Ley del Servicio Público de Energía Eléctrica*, or *LSPEE*) first allowed private companies to invest in and develop generation and transmission projects—the Mexican electric sector has undergone important changes. Further changes are likely to occur in the months ahead as a result of a proposal by the administration of President Vicente Fox to dramatically restructure the electric sector.

The 1993 modifications to *LSPEE* have led to changes in the manner in which new generation capacity is being added to Mexico's grid. A large amount of new capacity has been and is being constructed and operated by private generators under competitively bid long-term contracts with the Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*), as opposed to being built by *CFE* itself.

Numerous authorities govern the activities of private companies in the Mexican electricity sector through a large body of rules and regulations that form the regulatory framework. Furthermore, the ability of private companies to undertake projects in conjunction with *CFE* is complicated by the special legal requirements that apply to the state-owned company. Accordingly, this *Handbook* contains information on the range of requirements, regulations and permits for use by developers, investors and other companies interested in the Mexican electric sector. It also provides a summary of major laws, implementing legislation and regulations on a range of issues affecting private sector developers of projects in the electric sector. Although some references are made to environmental permitting issues in this *Handbook*, these are addressed in greater detail in the companion *Handbook on Environmental Permitting for Electric Generation and Transmission Projects in Mexico*.

A.1. Who Should Use This *Handbook*?

This *Handbook* is directed to representatives of companies who may be considering participation in the Mexican electricity sector, either through a bid issued by the *CFE* or in a project undertaken strictly on a private basis. The *Handbook* is intended to give such individuals an understanding of the requirements in Mexico, irrespective of the level of involvement in the actual process of securing permits. In addition, the *Handbook* is also intended to serve government officials in the United States and Mexico who are concerned with promoting growth in Mexico's electricity sector.

The presentations contained in Parts A, B, C and D are designed for review by senior managers who need to understand the general requirements of the process, but who are not going to be actively engaged in the oversight and execution of the

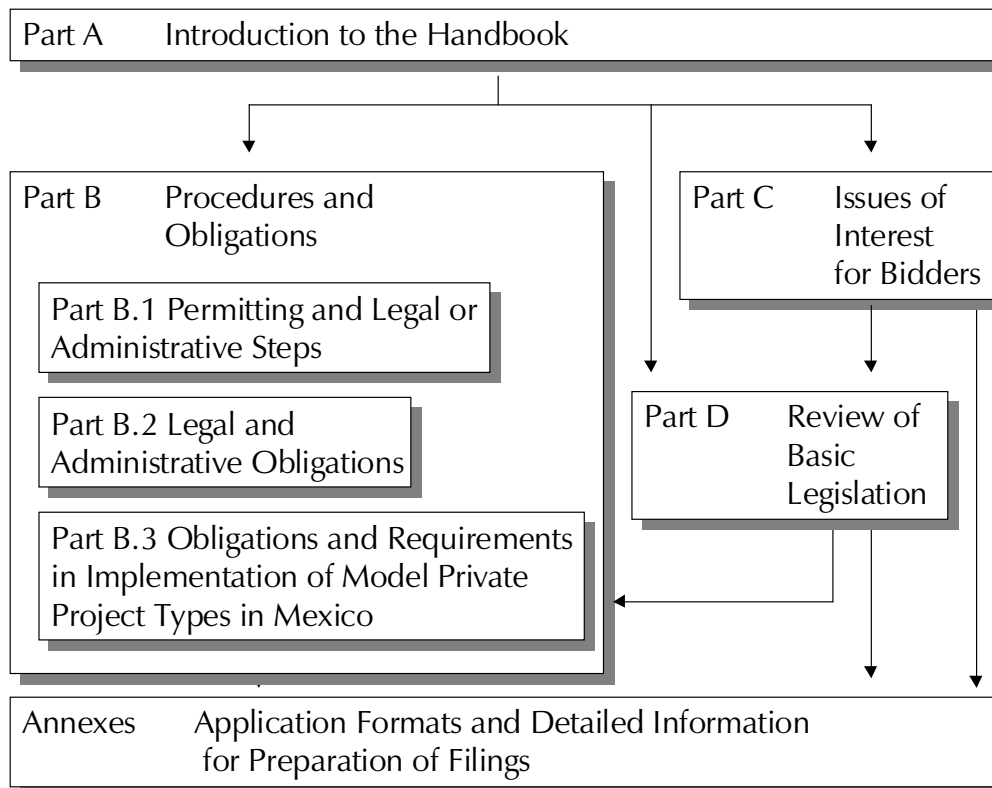
permitting process. More detailed material contained in the Annex (provided with this *Handbook* on a CD-ROM) is presented for the convenience of those managers who will be actively engaged in the permitting process and who therefore should have knowledge of Spanish (the Annex is in Spanish).

A.2. How to Use This *Handbook*

This *Handbook* has been designed for use as a reference resource. As a result, every effort has been made to facilitate the identification and review of specific sections of the document. In addition, every effort has been made to provide all relevant information in each of the segments of the *Handbook* to minimize, but not eliminate, the need for laborious cross-referencing. Accordingly, the reader who reviews the document from beginning to end may note some repetition. This reflects the fact that different project types require many of the same permitting procedures and that it is not expected that the reader will review the *Handbook* from beginning to end.

The first-time reader should first consult this section, Introduction to the Legal Handbook, for an explanation of the contents and structure of the *Handbook*. The rest of the *Handbook* is divided into three general topics:

Figure 1: How to Use This *Handbook*



- ◆ Part B: The Regulatory Process
- ◆ Part C: Issues of Interest for Bidders
- ◆ Part D: A Review of Basic Legislation.

While a review of Part D is certainly recommended—especially for the reader not familiar with Mexico’s governmental institutions—it is not necessary to understand the material in Parts B and C. Therefore, the reader can select section(s) for review based on specific interests or concerns, rather than reviewing the entire document from beginning to end.

A.3. Structure of the *Handbook*

The technical sections of this *Handbook* include three main components: Parts B, C and D. A summary of each part is provided below to familiarize the reader with each part’s contents and purpose.

Part B: Procedures and Obligations

Permitting and Legal or Administrative Steps (Part B.1). This section covers the permitting and administrative steps involved in the implementation of electricity sector projects. Critical path diagrams with accompanying annotations explain the processes involved in requesting electricity generation, transmission and natural gas permits from the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or *CRE*), which may be required of developers depending on the project’s characteristics.² Part B.1. also provides details of the general legal, economic and technical requirements that must be fulfilled to obtain any permit, as well as the particular requirements essential for each permit type.

Legal or Administrative Obligations of Recipients of Permits, Licenses and Registrations or Other Administrative Procedures (Part B.2.). This section identifies the federal authorities with jurisdiction in permitting and administrative processes and explains their functions and responsibilities. In addition, it highlights the various legal or administrative obligations that permit holders for electric generation, transmission and natural gas projects face with regard to such issues as taxes, tariffs and import duties. Finally, because permit holders may be classified in various ways under Mexican law, this section illustrates what types of entities—and under what conditions—are obligated to pay each import duty, tariff or tax.

²The *Handbook* includes the procedure for acquiring permits for both the provision of natural gas services (transportation, distribution and storage) and the self-use of natural gas (transportation and storage) because of the growing importance of natural gas as a fuel for electricity generation. In most cases, a developer of an electricity generation plant will seek a permit for te self-use of natural gas. Part B.1. explains the differences between these two types of permits in greater detail.

Obligations and Requirements for Implementing Model Private Project Types in Mexico (Part B.3.). This section provides an overview of the different types of contractual arrangements currently used for private electricity projects in Mexico. There are three principal types of contractual arrangements that the Mexican government uses through *CFE*: Build-Own-Operate (*Construir-Poser-Operar*, or **BOO**), of which Build-Own-Operate-Transfer (*Construir-Poser-Operar-Transferir*, or **BOOT**) is a subset; Build-Lease-Transfer (*Construir-Arrendar-Transferir*, or **BLT**); and Publicly Financed Turn-key Projects (*Obra Pública Financiada*, or **OPF**). Part B.3.4. and B.3.5. detail contract issues regarding fuel supply arrangements and joint ventures with parastatal companies. The types of contracts allowed and the responsibilities of each party are discussed in Section B.3.4., as is the issue of gas pricing arrangements. Section B.3.5. identifies the requirements for the establishment of joint ventures between public sector firms in the electric sector (*CFE* and Central Light and Power [*Luz y Fuerza del Centro*, or **LyFC**]) and private entities.

Part C: Issues of Interest for Potential Bidders

The purpose of this part is to clarify questions and topics of concern for private investors in the Mexican electricity sector that commonly arise and that are not addressed elsewhere in the *Handbook*. Approximately 20 issues are covered and are recommended for any company considering investing in Mexico's electricity sector.

Part D: Review of Basic Legislation

This part summarizes the federal legislation that creates the framework for the operation of the electric sector and governs the activity of all participants in the sector, public and private. References to sources that contain the actual laws and regulations are provided at the end of each piece of legislation; the section is not designed to repeat the exact text of the laws and regulations. At the end of Part D is a matrix of the laws and the project types for which they are most likely to be relevant. The purpose is to facilitate the reader's understanding of which laws are of specific importance to each project type.

Appendices

A series of appendices are incorporated into this volume, including the following:

- ◆ Appendix 1: Organizational Charts of Government Agencies
- ◆ Appendix 2: Directory of Government Agencies
- ◆ Appendix 3: Key Interviews.

Annex to the Handbook

The *Handbook* includes a separate Annex containing additional information for permit holders that was not included in Part B, as well as definitions of the technical, financial and economic requirements for the permits indicated in the same section. Specific forms have been prepared by *CRE*, which are available in the Annex in the same form as can be found on the *CRE* website. In certain cases, as will be noted in the *Handbook*, there are no set application forms, only required content. The Annex also contains additional information not included in Part D regarding federal legislation that affects the electricity sector.

The Annex includes the following sections:

1. Generation Types Permitted under the Law on Public Service of Electric Energy
2. General and Particular Requirements to Obtain an Electric Energy Generation, Export or Import Permit
3. Obligations of Electricity Permit Holders
4. Conditions under Which an Electric Energy Permit Terminates
5. Calculation and Determination of Wheeling Agreements
6. Natural Gas: Requested Documentation for Obtaining Permits and Self-use of Natural Gas
7. Directive on the Determination of Geographic Zones
8. Obligations of Natural Gas Permit Holders
9. Evaluation Criteria for Solicitations for Natural Gas Permits
10. General Requirements for all Natural Gas Permits
11. Revocation of Natural Gas Permits
12. Additional Information from the Regulations of the Law on Public Service of Electric Energy Relevant to Holders of Electricity Generation Permits
13. Rules Regarding the Execution of Public Projects According to the Law on Public Works and Related Services
14. Additional Information Regarding the Law on Procurement, Leasing and Public Sector Services

PART B: REGULATORY PROCESS

This section covers the process involved in requesting and obtaining electric generation permits (independent production, self-supply, cogeneration, small production, exporting, importing and natural gas permits [transportation and self-use]). There are 11 figures that contain critical paths, procedures and particular requirements. In addition, there are annotations for each of the figures to facilitate comprehension of the process. Also, there is a matrix of the different permits required and the authorities involved and five tables that detail the time and fees involved in each type of permit.

B.1. Permitting and Legal or Administrative Steps

B.1.1. Critical Path Diagrams and Commentary Annotations

The Critical Path Diagrams and accompanying annotations are provided to explain the process involved in requesting and granting natural gas permits and electric generation permits as described by the energy-sector regulations. The annotations offer relevant detail for the Critical Path Diagrams and are organized so that the reader can follow the process chronologically from start to finish (with some variations due to cases where multiple activities must be completed simultaneously). Aspects of each permit's specific requirements are presented in the annotations, or references are made to guide the reader to the Annex or appropriate regulatory document. Brief explanations of the characteristics of the different types of permits are also provided to assist interested parties in choosing and requesting the permit that best suits their needs and projects. The Annex contains further information regarding the various private sector activities in electricity generation and natural gas transmission, storage and distribution accepted under Mexican law.

The procedure to request a permit can be summarized in three major stages:

- ◆ First, the applicant identifies the type of permit needed. The applicant should be aware of the different types of permits that the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or **CRE**) can grant and the requirements that law and regulations demand of the interested party. Then the applicant needs to determine the type of permit based on its own specific requirements, the characteristics of the project and the end-users to whom the energy will be supplied.
- ◆ Second, the applicant compiles and submits the required documentation. Each permit has its own particular legal and technical requirements in addition to general requirements essential for all permit types. Once the requirements are fulfilled, the applicant must present the corresponding documen-

tation to *CRE* along with the request so that *CRE* can begin to analyze and evaluate the request.

- ◆ Third, *CRE* processes the request. *CRE* verifies that the documents presented meet the requirements established for the permit. At this juncture, if all the requirements are fulfilled, *CRE* grants the permit. If omissions or deficiencies are found, *CRE* notifies the applicant so it can perform the necessary corrections. Once the deficiencies are corrected, *CRE* re-evaluates the request, and if no obstacle is found, grants the permit.

Other important aspects of the permitting process are covered in this section as well. Flow charts and annotations describe how a permit holder can renew a permit and how a permit can be transferred from one party to another. The conditions under which a permit is revoked or terminated are also addressed in the annotations. Finally, at the end of the section, tables present a summary of the fees required and the time it takes to obtain each permit.

Note that *CRE* expects project developers to have obtained all necessary environmental permits prior to filing for the relevant *CRE* permit. In some instances, it is sufficient to prove that the developer has at least begun the process to obtain the necessary environmental permits. In such cases, the developer will need to consult with *CRE* to discern exactly what the requirements are to prove that the process has actually begun. The environmental permitting issues are covered in a companion handbook, *Handbook on Environmental Permitting for Generation and Transmission Projects in Mexico*.

B.1.2. Critical Path for the Granting and Modifying of Electricity Generation Permits

LSPEE was reformed in 1992 to expand and define the participation of private entities in the areas of electric energy generation, importing and exporting. In 1993, the Regulations of *LSPEE* (the Regulations) were published. Among other topics, it develops the criteria that govern the activities of electric energy generation, exporting and importing by private entities.

LSPEE and its Regulations define six types of permits for the activities that are not considered public service: self-supply, cogeneration, independent production, small production, importing and exporting, and establish the conditions under which each one of the permits shall be granted (Article 36 of *LSPEE*).

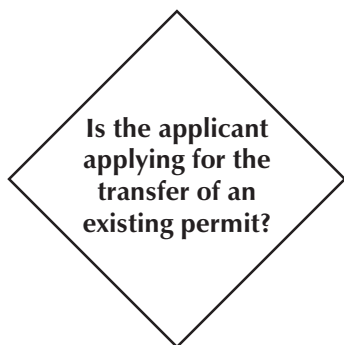
The agency through which all applications for power generation permits must pass is *CRE*. The 1995 Law of the Energy Regulatory Commission vested *CRE* with the power to grant and revoke permits and authorizations for each of the activities listed in the section above, and the power to authorize the transfer of the rights stemming from the permits.

A permit holder must comply with all the relevant official Mexican norms and other mandatory laws and regulations. *CRE* strongly encourages permit applicants to thoroughly read the relevant laws, regulations and norms before submitting an application. All of the documents can be found at the *CRE* website, www.CRE.gob.mx. Furthermore, according to *LSPEE*, permit holders assume any risk that may impede the operability of a generation plant and thus the availability of electric energy.

B.1.2.1. Annotations for the Processes of Granting and Modifying Electricity Generation Permits

The following annotations describe each of the steps identified in Figure 2. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

The processes for obtaining and modifying permits for electricity generation are identical.



Decision Point:

Is the applicant applying for the transfer of an existing permit?

If the answer is yes:

Submit an application for the transfer of an existing electric generation, import or export permit. Refer to Section B.1.5. for more information on this process.

If the answer is no:

Proceed to the next Decision Point.



Decision Point:

Is the intended activity either (1) generation of electric energy that is to be used in emergencies due to interruptions in the public service or (2) self-supply not exceeding 0.5 MW, and not allocated to small rural communities? This is according to Article 39 of *LSPEE*.

If the answer is yes:

No generation permit is required.



If the answer is no:

Proceed to the next Decision Point asking whether or not transmission lines are going to be built.

Decision Point:

Has the applicant obtained all required environmental permits or initiated the permitting process?

If the answer is yes:

Go to the next step in the electric generation permitting process, which is to hold a preliminary meeting with *CRE*.

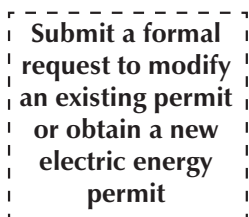
If the answer is no:

Refer to the *Handbook on Environmental Permitting Issues* for an overview of the process for obtaining the requisite environmental permits. In Mexico there are various environmental requirements that must be met at all three levels of government (federal, state and municipal) to receive permission to build either transmission lines or power plants.



Administrative Procedure:

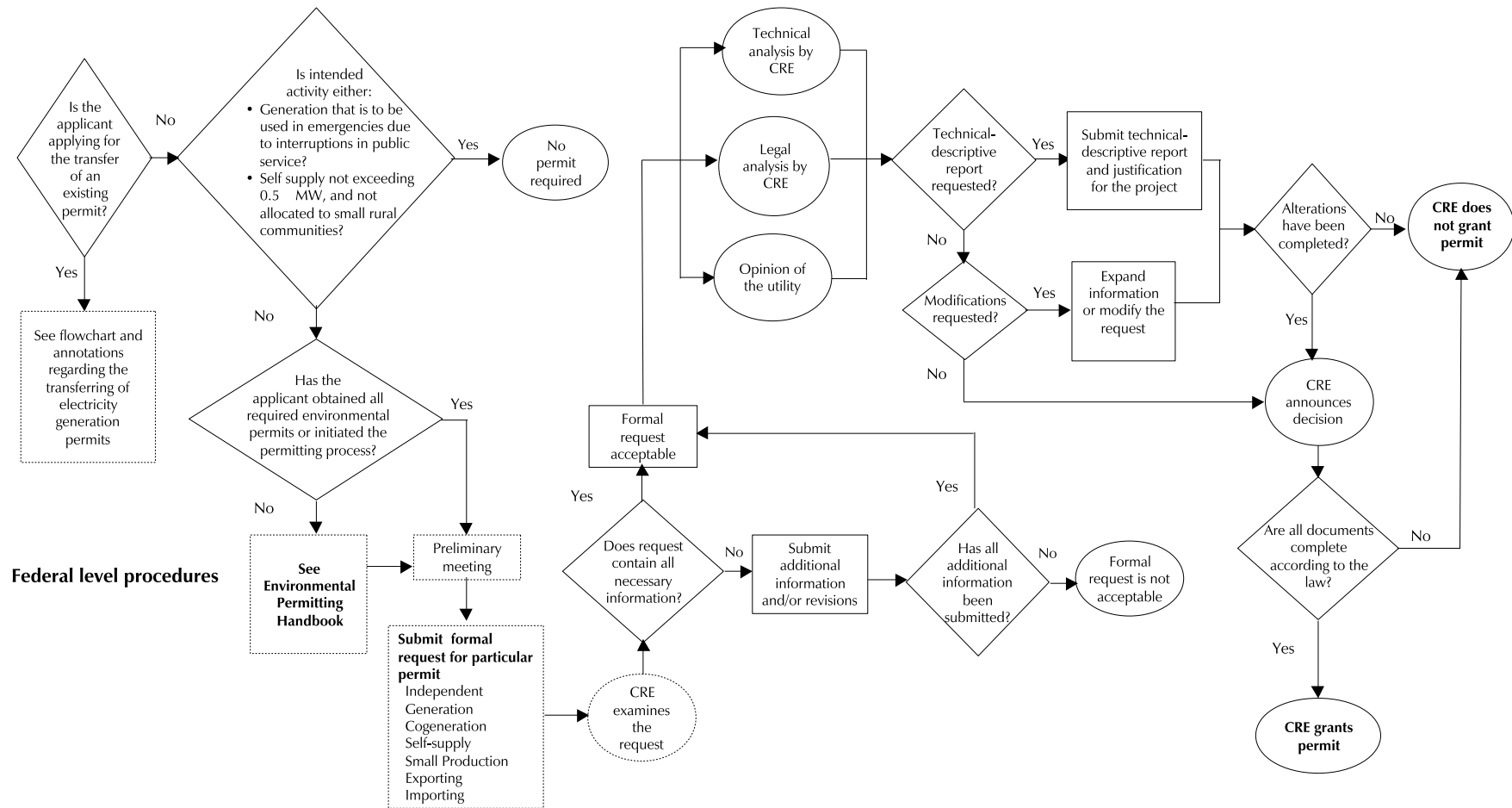
At this point a preliminary meeting must be held with *CRE*. This should be done before the delivery of any documentation to resolve any issues regarding completion of the applications forms or to identify any additional documents that may be required. This step is designed to expedite the analysis and evaluation of the request and is considered extremely important by *CRE*. The applicant should contact *CRE*, inform the Commission of its intention to apply for a natural gas permit and set up a meeting.



Administrative Procedure:

Submit a formal request to modify an existing permit or obtain a new electric energy permit: independent generation, cogeneration, self-supply, small production, exporting, importing (see

Figure 2: Critical Path for CRE Generation, Export and Import Permits



State level procedures

Municipal level procedures

This Page Intentionally Left Blank

Section 2 of the Annex for more in-depth discussion of particular electric energy permits and flow-chart diagrams).

Among others, the general requirements for filing include submitting documentation about the applicant, proof that the applicant has begun the requisite environmental permitting processes and a technical-descriptive report (see Section 2 of the Annex for a complete list of general and particular requirements for obtaining an electric energy generation, export or import permit).

An original and two copies of the request in the authorized format must be delivered to the Forms Office of *CRE*.



Administrative Response:

At this point, *CRE* examines the request to verify that it contains the information and the documents required by *LSPEE* and its Regulations.

If there is any omission in the request, *CRE* will communicate this information with the applicant. The examination takes place within 10 business days.



Decision Point:

Does the request contain all the necessary information?

If the answer is yes:

CRE, within 10 business days from the date on which the application is presented in a completed form, communicates to the applicant via an official letter that the request has been accepted for processing.

At this point, *CRE* conducts both a legal analysis and a technical analysis of the request and submits a copy of the request to either the Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*) or Central Light and Power

(*Luz y Fuerza del Centro*, or *LyFC*) so that the relevant company can render its utility opinion.

If the answer is no:

The applicant must gather the necessary information, incorporate it into the documentation and present it in full to *CRE*. The applicant has a period of 10 business days to comply with the request, otherwise the application shall be rejected.

Administrative Response:

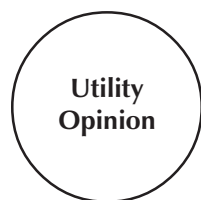
Once accepted for processing, *CRE* sends a copy of the request and the respective files to either *CFE* or *LyFC* so that the relevant utility can issue its opinion on the request.

The utility opinion is based on objective criteria about the availability and firmness of the project's capacity and energy surpluses, the backup capacity and energy requirements and the transmission services provided in the permit request. The applicant may or may not be required to follow the utility opinions. If the utility opinion calls for modifications or restrictions to the project, *CRE* will allow the applicant to issue a response. *CRE* will analyze the response and notify the applicant as to which utility opinions it is required to follow, if any.

The utility is obligated to deliver its opinion to *CRE* within 30 business days, except in the cases dealing with requests for small production in which the utility must deliver its opinion within 10 business days.

Administrative Response:

CRE performs technical and legal analyses of the request concurrently with the opinion of the utility. *CRE* examines the validity of the information presented and evaluates the suitability of the proposed project with respect to the requirements established in *LSPEE* and in the Regulations. For such purposes, *CRE* considers the opin-



ion of the utility and evaluates the compatibility of the project with the objectives of the National Energy Policy established by the Secretariat of Energy (*Secretaría de Energía*, or *SENER*) (Article 36, Part I of *LSPEE*). *CRE* may or may not request modifications to the technical-descriptive report.



Decision Point:

Are modifications to the technical-descriptive report requested by *CRE*?

If the answer is yes:

CRE indicates that the information provided in the request does not include adequate information to evaluate the project. The applicant must resubmit the technical-descriptive report and justification for the project with the requisite information identified by *CRE*. Section 2 of the Annex provides a list of the necessary elements of a technical-descriptive report.

The technical-descriptive report and justification must be presented to *CRE* within 10 business days of the request or *CRE* will not grant the permit to the applicant.

Decision Point:

Are modifications to the application requested by *CRE*?

If the answer is yes:

Although *CRE* may not require the resubmission of a detailed technical-descriptive report and justification for the project after this review period, it may require modifications to the application, which must be submitted within 10 business days following the date on which *CRE* requested the modifications.

If the modifications are not presented, *CRE* will not grant the permit.



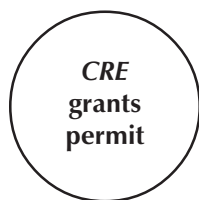
If the answer is no:

CRE begins the process of issuing an opinion about the validity of the request.



Administrative Response:

After the applicant submits the modifications or technical-descriptive report as required, *CRE* issues an opinion about the validity of the request and may or may not grant permit.



Administrative Response:

At this point, if all the documents are complete according to *LSPEE* and the requests of *CRE*, the applicant will be granted a permit. *CRE* issues the permit within 30 business days after the applicant has submitted the required modifications.

Multiple Owners of a Generation Plant

In instances when there are multiple owners of a generation plant, the permit will be granted to all owners through a common representative, who is appointed by the owners.

Duration

Permits are of indefinite duration. The only exception is independent production permits, which are granted for a term of up to 30 years, and are renewable (Articles 78 and 91 of the Regulations).

Change of Destination and Change in Permit Conditions

According to Article 78 of the Regulations, any change of destination of the electric energy that is generated requires that a new permit be granted by *CRE*. A change in destination is defined as any change in the natural or artificial persons that use the electric energy, except in those cases in which *CRE* has the power to authorize the inclusion of new persons to use the energy, or the transfer of the rights stemming from the permit. For the applicant to make any other change in the conditions established in the permit requires prior authorization of *CRE*.

It is suggested that a permit holder planning to change the destination of electric energy, or make any other change in the conditions established in the permit, should consult *CRE* concerning actions to take to avoid legal incrimination.

Termination of Permits

Articles 99 and 100 of the Regulations dictate the conditions under which a permit terminates, including instances when *CRE* will revoke a permit. Section 4 of the Annex contains a list of termination conditions and how a permit holder, under certain circumstances, may respond to *CRE* and potentially reverse the decision to revoke a permit.

B.1.3. Critical Path for the Transfer of Electricity Permits

The process to transfer electric energy generation, exporting and importing permits is sufficiently complex to warrant its own flowchart, diagrams and explanation. Articles 94–98 of the Regulations of *LSPEE* lay the groundwork for the transfer of electric energy permits.

The process to transfer an electric energy permit may be initiated in one of three ways:

- ◆ By petition of the permit holder and the entity that intends to obtain the permit
- ◆ By succession due to the dissolution or incapacity of the current permit holder
- ◆ By judicial action.

Permits can be transferred between accredited entities for all six types of activities that are not considered public service: self-supply, cogeneration, independent production, small production, importing and exporting.

The entity to which a permit is transferred is bound by all the applicable norms and obligations of a permit holder of an electricity generation permit.

B.1.3.1. Annotations for the Transfer of Electricity Permits

The following annotations describe each of the steps identified in Figure 3. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Submit application
for transfer of
permit

Administrative Procedure:

Present application for transfer of permit to *CRE*. According to Article 94 of the Regulations, the permit holder and the applicant that intends to acquire the permit rights must jointly send a written request to *CRE*. Simultaneously, the applicant must submit the relevant documents that prove its legal personality and must demonstrate that it fulfills all the requirements of *LSPEE* and

the Regulations to be a permit holder in the activity for which it will receive a permit.

It is suggested that the candidate for the permit transfer confer with *CRE* as to what exactly these requirements are and how the candidate can demonstrate that it fulfills all of the requirements.

In addition, the rights and obligations of a permit may be transferred, including the relevant facilities, through succession or court adjudication. In these cases, the interested parties must:

- ◆ Present an application that indicates the reason for the transfer
- ◆ Include documentation that provides proof of the legal status of the entity that is to receive the relevant rights and that demonstrates compliance with all requirements established in *LSPEE* and the Regulation for permit holders, as appropriate for each case
- ◆ Present documentation that demonstrates that the applicant has legal title to the rights in question.

Administrative Response:

CRE reviews the documentation to determine whether or not it requires additional information. The process takes 20 working days from date that *CRE* received application.

Decision Point:

Does *CRE* approve the application?

If the answer is yes:

Submit a contract that demonstrates the transference of the rights of the permit and any installations related to those rights. The contract must contain a clause that explicitly states that the acquirer of the permit assumes all the rights and obligations under the permit regime from the previous permit holder. *CRE* immediately recognizes the transfer of the permit and all its rights to the applicant upon receiving the contract.

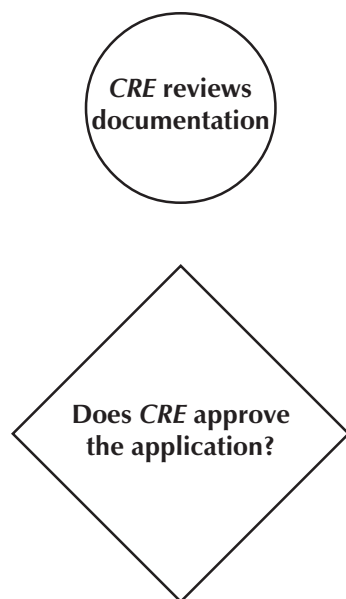
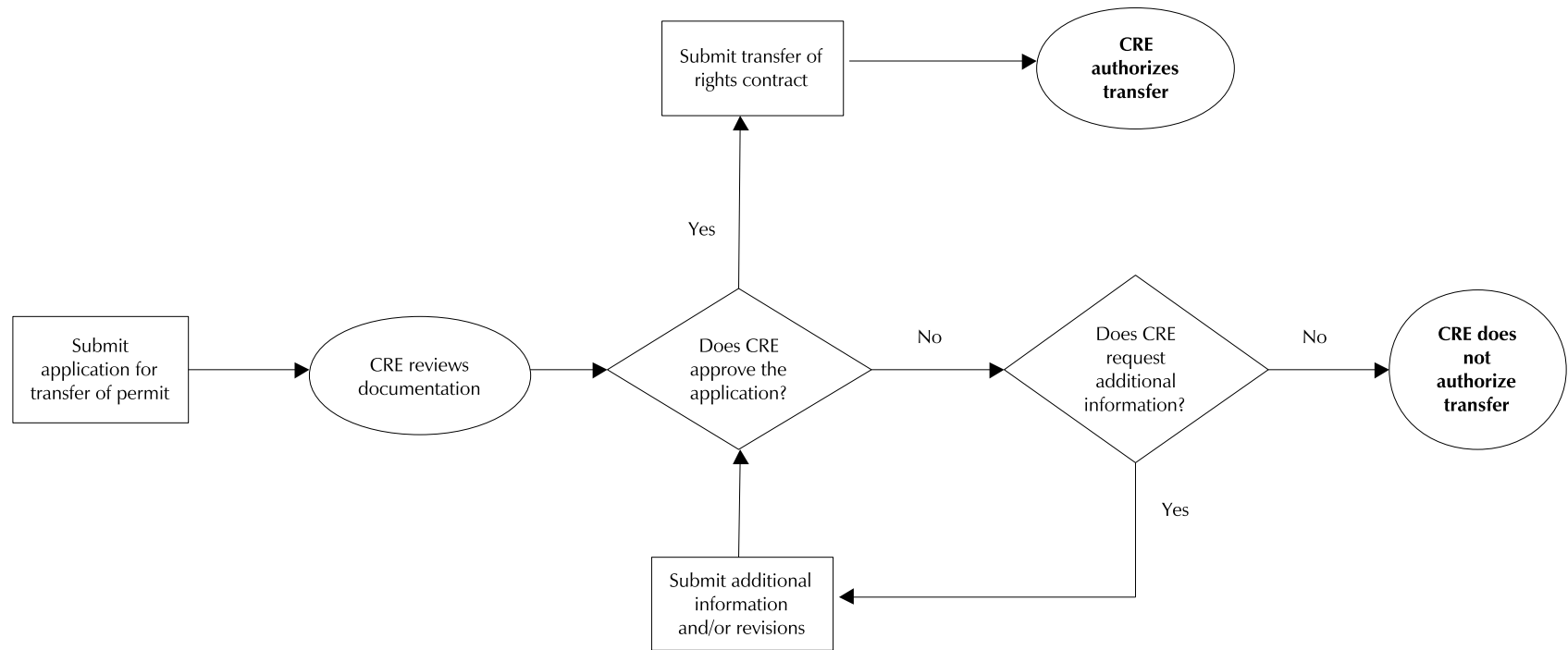


Figure 3: Procedure to Transfer Electricity Permits

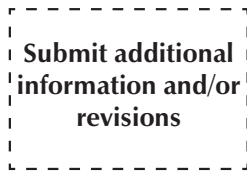
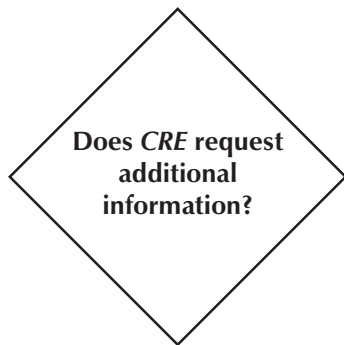


Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank



If the answer is no:

Proceed to the next Decision Point.

Decision Point:

Does CRE request additional information?

If the answer is yes:

Proceed to the next Filing procedure.

If the answer is no:

CRE does not authorize transfer.

Administrative Procedure:

CRE may request that the applicant submit certain data, documents and clarifications that it deems necessary to render its decision. The applicant has 10 working days to correct all deficiencies and resubmit application, or CRE will dismiss the application.

Administrative Response:

As stated above, CRE immediately grants the permit to the applicant upon receiving the contract. Transferred permits are valid until the original expiration date and are subject to all the conditions of granted permits.

B.1.4. Self-supply

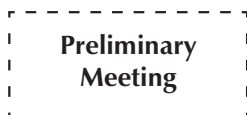
The Mexican government has recognized that several branches of industry need to optimize the use of inputs required for production processes to minimize costs and maintain their competition level within their market shares. Self-supply of electricity can help satisfy those needs, and interested applicants can apply for a self-supply generation permit.

Self-supply is defined as the use of electric energy to satisfy the permit holder's own needs, or the needs of a set of co-owners or partners. Self-supply projects may have a generation capacity beyond the needs of the entity that will use the electric energy. However, the applicant must agree to make available to CFE any electric energy surpluses up to 20 MW.

B.1.4.1. Annotations for the Particular Requirements of Self-supply

The following annotations describe each of the steps identified in Figure 4. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Refer to Section 1 of the Annex for a complete list of the additional requirements for self-supply.



Administrative Procedure:

The preliminary meeting with *CRE* (as mentioned in the annotations for the *CRE* permitting process) will help the applicant determine exactly which permit type(s) it needs. This will be based on the applicant's specific requirements, the generation characteristics of its projects and according to the person(s) who shall use the energy.



Decision Point:

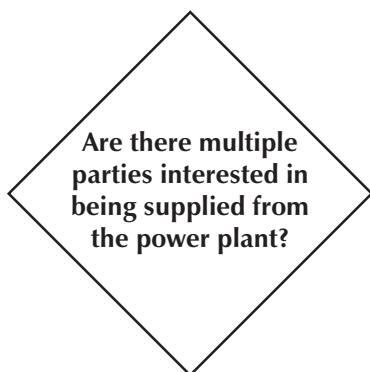
Will future entities likely be incorporated as partners or co-owners of the facility?

If the answer is yes:

Include project expansion plans with the documentation that contains the names of the entities that will be incorporated as future partners. If this information is not known, it will be necessary to obtain a new permit every time a new partner wishes to be included.

If the answer is no:

Proceed to the next Decision Point.



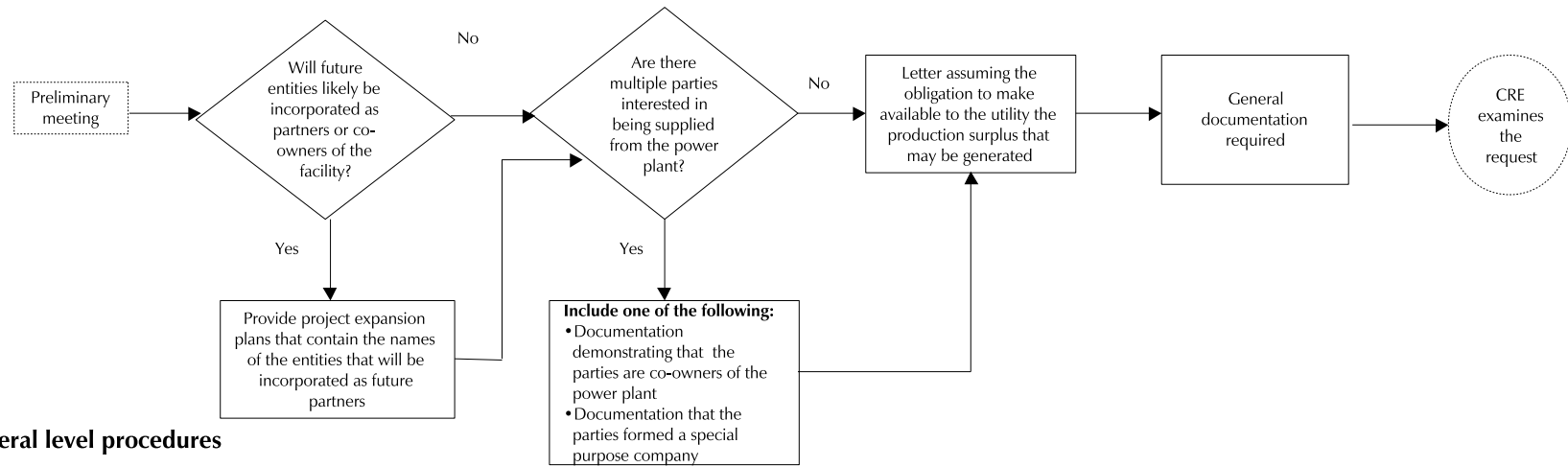
Decision Point:

Are there multiple parties interested in being supplied from the power plant?

If the answer is yes:

Submit original documentation or a certified copy demonstrating that the parties are co-owners of the power plant or that they formed a special purpose company according to Article 36 of *LSPEE*.

Figure 4: Particular Requirements Self-supply



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

If the answer is no:

Proceed to the next Administrative Procedure.

Administrative Procedure:

The applicant must include a letter assuming the obligation to make available to *CFE* any production surplus that may be generated.

Administrative Procedure:

Submit general documentation required for all permit types. A detailed presentation of the general requirements can be found in Section 1 of the Annex. Below is a summary of those requirements:

- ◆ Permit application form.
- ◆ Documentation certifying the legal existence of the applicant.
- ◆ Documentation certifying the legal capacity of the legal representative.
- ◆ Document proving ownership or authorization to use the land to be occupied by the facilities.
- ◆ General description of the project.
- ◆ Information on the use of waters
- ◆ Information regarding compliance with ecological standards
- ◆ Information on the use of land and soil
- ◆ When required, a technical-descriptive report.

Letter assuming the obligation to make available to the utility the production surplus that may be generated

General documentation required

B.1.5. Cogeneration

Similar to self-supply of electricity, cogeneration can help optimize the use of inputs required for the production processes of various industries. Cogeneration has the added benefit of producing electricity simultaneously with thermal energy with higher efficiency than electricity obtained in separate systems. A cogeneration project in Mexico must meet one of the following definitions:

- ◆ The generation of electric energy along with steam or any other type of secondary thermal energy, based on a common primary source, provided the steam or the secondary thermal energy is allocated to the process that leads to the

cogeneration and the electric energy is used by the establishments that are associated with the cogeneration.

- ◆ The generation of electric energy from thermal energy that is not used in the process that leads to cogeneration, provided the electric energy is for establishments that are associated to the cogeneration.
- ◆ The generation of electric energy using the fuel produced in the process that leads to cogeneration, provided the electric energy is for establishments that are associated to the cogeneration.

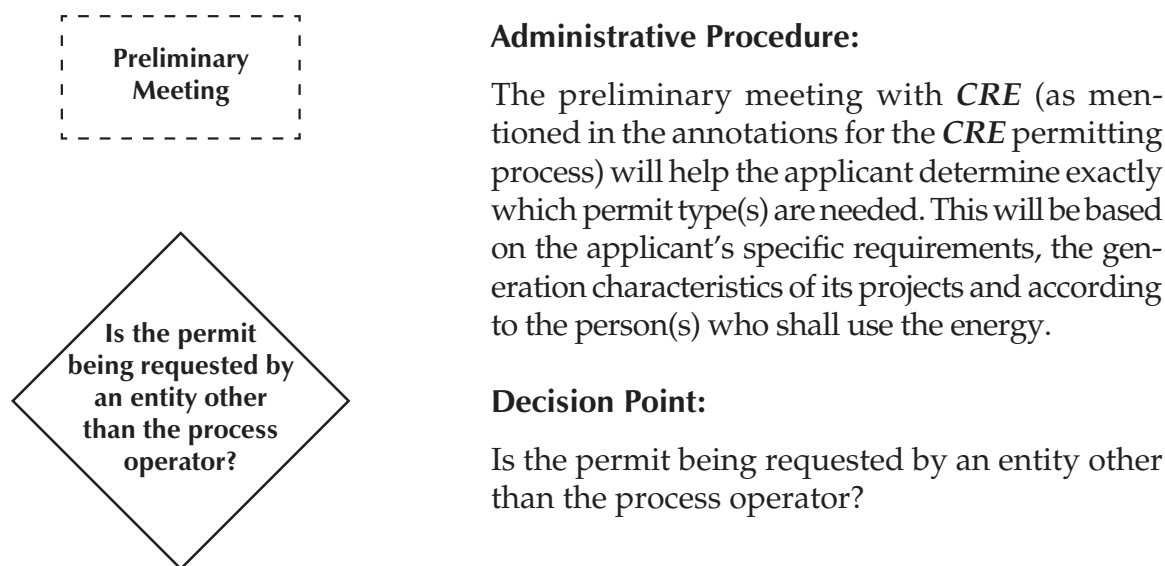
In only three instances are certain entities allowed to use the electricity from a cogeneration plant: (1) the permit holder is the actual process operator; (2) the permit holder has signed an agreement with the process operator, in which case both the permit holder and the process operator may use the electric energy; and (3), the permit holder is a cogeneration company, in which case the process operator and all the partners of the cogeneration company may use the electricity.

Furthermore, the applicant is obligated to make available to *CFE* the surplus electric energy production up to the amount of 20 MW. This includes an analysis estimating the expected availability of electric energy and energy surplus per typical day. The analysis must be prepared on a monthly basis.

B.1.5.1. Annotations for the Particular Requirements of Cogeneration

The following annotations describe each of the steps identified in Figure 5. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Refer to Section 2 of the Annex for a complete list of the additional requirements for cogeneration.



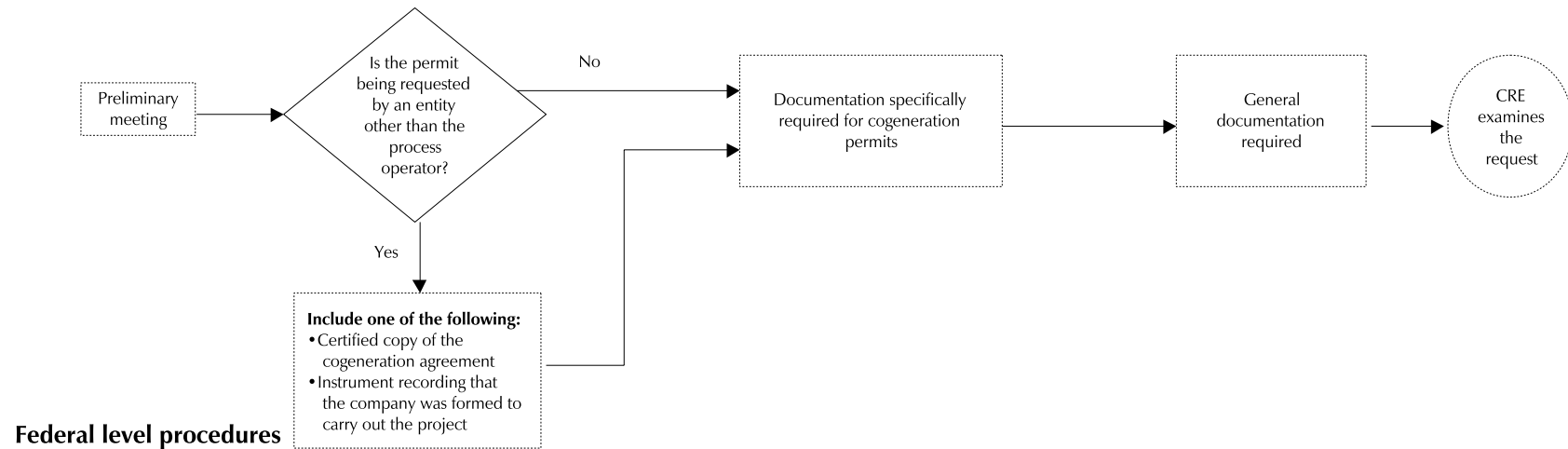
Administrative Procedure:

The preliminary meeting with *CRE* (as mentioned in the annotations for the *CRE* permitting process) will help the applicant determine exactly which permit type(s) are needed. This will be based on the applicant's specific requirements, the generation characteristics of its projects and according to the person(s) who shall use the energy.

Decision Point:

Is the permit being requested by an entity other than the process operator?

Figure 5: Particular Requirements for Cogeneration



State level procedures

Municipal level procedures

This Page Intentionally Left Blank

If the answer is yes:

In cases when the applicant has an agreement with the process operator, submit a certified copy of the cogeneration agreement.

In cases when the applicant is a cogeneration company, submit the instrument recording that the company was specifically formed to carry out the project (Article 106 of the Regulations).

If the answer is no:

Proceed to the next step and file the required documentation.

Documentation
specifically
required for
cogeneration
permits

Administrative Procedure:

Include documentation specifically required for cogeneration permits. A complete list of these requirements can be found in Section 2 of the Annex. Below is a shortened list of the requirements not already mentioned in this section.

- ◆ General description of the cogeneration process
- ◆ Report on energy and economic efficiency calculations
- ◆ Load distribution and location of establishments that will consume the electricity

General
documentation
required

Administrative Procedure:

Submit general documentation required for all permit types. A detailed presentation of the general requirements can be found in Section 2 of the Annex. Below is a summary of those requirements:

- ◆ Permit application form
- ◆ Documentation certifying the legal existence of the applicant
- ◆ Documentation certifying the legal capacity of the legal representative
- ◆ Document proving ownership or authorization to use the land to be occupied by the facilities

- ◆ General description of the project
- ◆ Information on the use of water
- ◆ Information regarding compliance with ecological standards
- ◆ Information on the use of land and soil
- ◆ When required, a technical-descriptive report.

B.1.6. Independent Power Producer

Due to increases in electricity demand in recent years, mainly in areas with the greatest expansion in the industrial sector, the Mexican government has decided to permit the independent production of electric energy. This is an alternative for reducing expenditures of considerable public sector investments in the construction of new power plants. Since 1996, several companies have been assigned Power Purchase Agreements (*Contrato de Compra-Venta de Energía*, or *PPA*) and permits to independently produce electricity. The Ministry of Energy and *CFE* continue to support these types of investments.

Independent production in Mexico is defined as the generation of electric energy at plants with a capacity of greater than 30MW, provided the electric energy is either sold to *CFE*, is exported or is divided between both activities (Article 36, Part III, clause (c) of *LSPEE*). Independent production results from a bid tendered by *CFE*, where the Ministry of Energy plans the bid contracts in the National Prospective of the Electricity Sector.

B.1.6.1. Annotations for the Particular Requirements of Independent Production

The following annotations describe each of the steps identified in Figure 6. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Independent production permits are granted for a term of up to 30 years and are renewable. applicants interested in renewing their permits must submit their request before the expiration date of their current permit (Articles 78 and 91 of the Regulations).

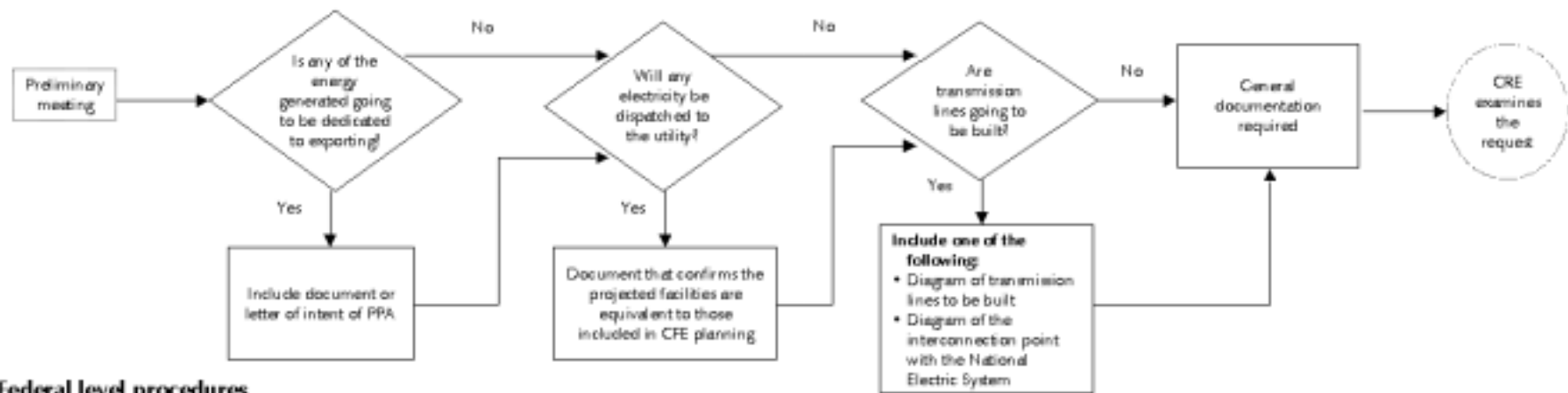
Refer to the Sections 1 and 2 of the Annex for a complete list of the additional requirements for independent production.

Preliminary Meeting

Administrative Procedure:

The preliminary meeting with *CRE* (as mentioned in the annotations for the *CRE* permitting

Figure 6: Particular Requirements for Independent Production



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

process) will help the applicant determine exactly which permit type(s) are needed. This will be based on the applicant's specific requirements, the generation characteristics of its projects and according to the person(s) who shall use the energy.



Decision Point:

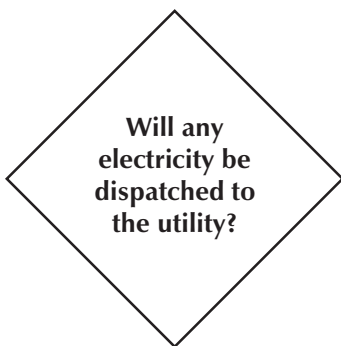
Is any of the energy generated going to be exported?

If the answer is yes:

Submit a document or letter of intent to sign a *PPA* with the entity the electricity is being exported to with the formal request for the generating permit.

If the answer is no:

Proceed to next Decision Point.



Decision Point:

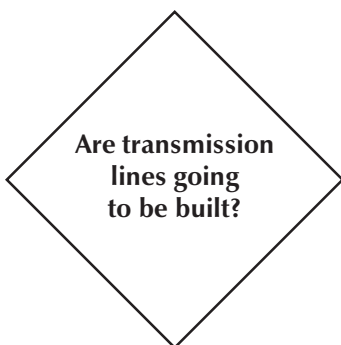
Will any electricity be dispatched to the utility?

If the answer is yes:

Include a copy of the document that confirms the projected facilities are equivalent to those included in *CFE* planning.

If the answer is no:

Proceed to next Decision Point.



Decision Point:

Are transmission lines going to be built?

If the answer is yes:

Submit a diagram of the proposed transmission lines indicating the means that will be used to operate them.

If the answer is no:

Submit a diagram showing the interconnection point(s) with the National Electric System.

General
documentation
required

Administrative Procedure:

Submit general documentation required for all permit types. A detailed presentation of the general requirements can be found in Section 2 of the Annex. Below is a summary of those requirements:

- ◆ Permit application form
- ◆ Documentation certifying the legal existence of the applicant
- ◆ Documentation certifying the legal capacity of the legal representative
- ◆ Document proving ownership or authorization to use the land to be occupied by the facilities
- ◆ General description of the project
- ◆ Information on the use of waters
- ◆ Information regarding compliance with ecological standards
- ◆ Information on the use of land and soil
- ◆ When required, a technical-descriptive report.

B.1.7. Small Production Projects

In Mexico, an electric generation project falls under the classification of small production when it corresponds to one of the following two definitions. First, any plant with a capacity of less than or equal to 30 MW from which the electricity will be sold to *CFE* or will be exported. Second, any plant with a capacity of less than or equal to 1 MW from which the electricity is for self-supply of small rural communities or isolated areas that lack electricity.

The granting of a small production permit does not guarantee that *CFE* will purchase the electricity.

According to Article 36, Part IV, clause (b) of *LSPEE*, there are restrictions on the amount of permits one sole entity may hold within the same area of small production. The restriction is determined by aggregating the total capacity of all the permits held by one entity, which may not exceed 30 MW. The boundaries of the small production areas are set by *CRE* taking into account the fuels that are used to generate electricity and certain characteristics of the zone including the existing electric power infrastructure (Article 112 of the Regulations). It is suggested that the applicant consult *CRE* with regard to this issue during the preliminary meeting.

B.1.7.1. Annotations for the Particular Requirements of Small Production

The following annotations describe each of the steps identified in Figure 7. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Refer to Sections 1 and 2 of the Annex for a complete list of the additional requirements for small production.

Preliminary
meeting

Administrative Procedure:

The preliminary meeting with *CRE* (as mentioned in the annotations for the *CRE* permitting process) will help the applicant determine exactly which permit type(s) are needed. This will be based on the applicant's specific requirements, the generation characteristics of its projects and according to the person(s) who shall use the energy.

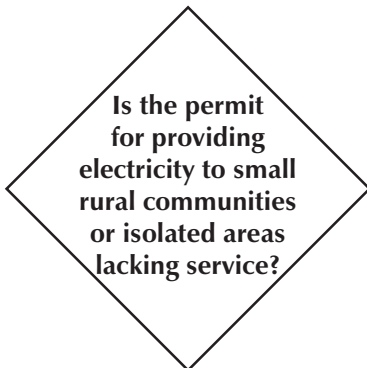
Decision Point:

Is the applicant obtaining the permit for the purpose of providing electricity to small rural communities or isolated areas lacking service?

If the answer is yes:

According to Article 113 of the Regulations, the applicant must be a consumption cooperative, co-owner, association or civil entity, or have signed a cooperation agreement for the purpose of self-supply. To prove this, the applicant must submit a certified copy or testimony of the legal instrument recording the organization created or agreement signed for the purpose of small production. However, the applicant may request the permit through the authorities of the municipal or local government in cases where the applicant has executed an agreement of shared responsibility with those authorities.

In addition, the applicant must submit a certified copy of the agreements signed with the persons to whom the electricity will be delivered and the conditions under which the delivery to the end users shall take place.



Small production permit holders engaging in these types of activities have two other special obligations under the law of which they should be aware (Article 114 of the Regulations).

1. Notify *CRE* upon completing the installations and initiating their operation
2. Submit a yearly report to SENER about the general operation of the installation.

If the answer is no:

File general documentation.

Administrative Procedure:

Submit general documentation required for all permit types. A detailed presentation of the general requirements can be found in Sections 1 and 2 of the Annex. Below is a summary of those requirements:

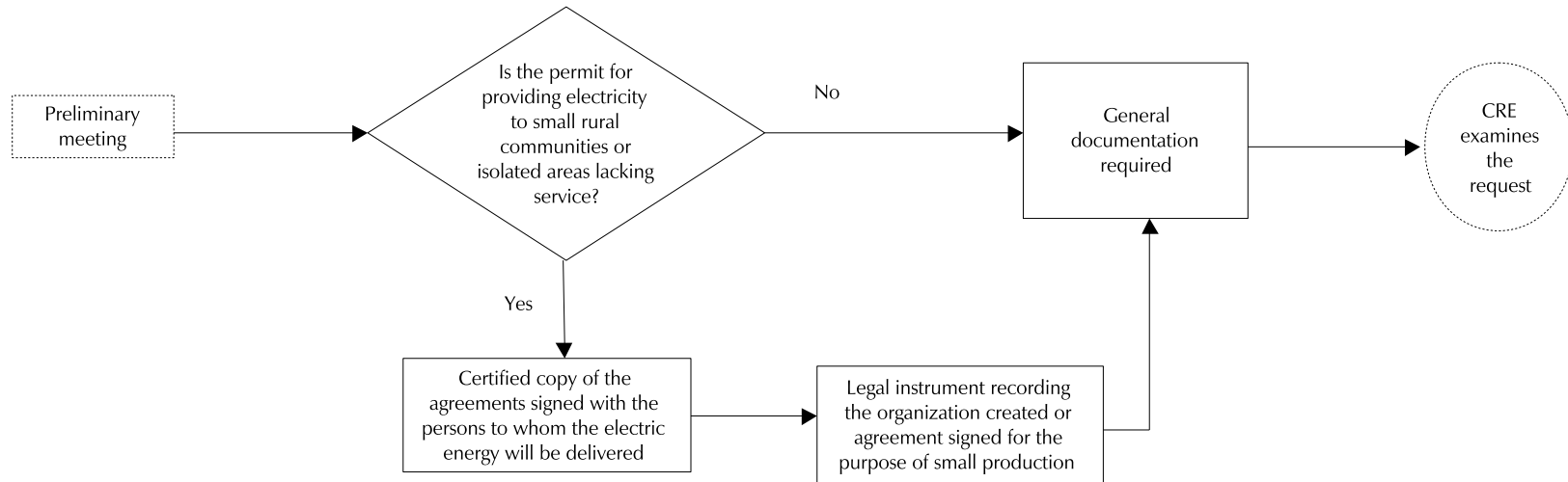
- ◆ Permit application form
- ◆ Documentation certifying the legal existence of the applicant
- ◆ Documentation certifying the legal capacity of the legal representative
- ◆ Document proving ownership or authorization to use the land to be occupied by the facilities
- ◆ General description of the project
- ◆ Information on the use of waters
- ◆ Information regarding compliance with ecological standards
- ◆ Information on the use of land and soil
- ◆ When required, a technical-descriptive report.

General
documentation
required

B.1.8. Importing

CRE permits the importing of electricity to meet the individual needs of permit holders, especially to meet those of consumers located near foreign borders.

Figure 7: Particular Requirements for Small Production



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

Importing is defined as the purchase of electric energy from generating plants located abroad for use inside national territory. Any entity may request import permits. Only the permit holder may use the electricity that is imported and it is subject to the payment of the applicable import duties (Article 122 of the Regulations). It is suggested that the applicant consult *CRE* during the preliminary meeting to determine the current import duties imposed on electric energy.

B.1.8.1. Annotations for the Particular Requirements of Importing

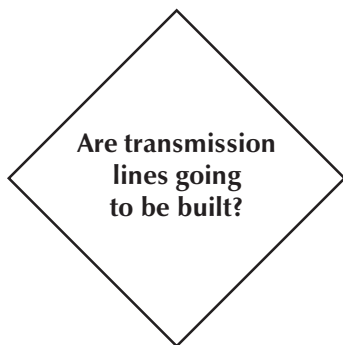
The following annotations describe each of the steps identified in Figure 8. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Refer to Sections 1 and 2 of the Annex for a complete list of the additional requirements for importing.



Administrative Procedure:

The preliminary meeting with *CRE* (as mentioned in the annotations for the *CRE* permitting process) will help the applicant determine exactly which permit type(s) are needed. This will be based on the applicant's specific requirements, the generation characteristics of its projects and according to the person(s) who shall use the energy.

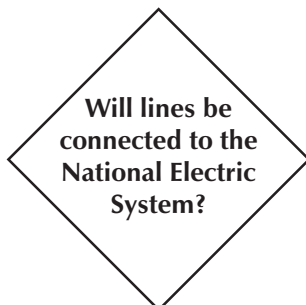


Decision Point:

Are transmission lines going to be built?

If the answer is yes:

Submit a diagram of the proposed transmission lines that indicates the means that will be used to operate them. *CRE* allows holders of import permits to build their own transmission lines to import electricity.



If the answer is no:

Proceed to the next Decision Point.

Decision Point:

Will lines be connected to the National Electric System?

If the answer is yes:

Submit a diagram showing the interconnection point(s) with the National Electric System. If the applicant does not wish to build its own transmission lines, it will be required to import its electricity through the National Electric System.

If the answer is no:

Proceed to the next Administrative Procedure.

Administrative Procedure:

Submit documentation required for importing. A complete list of these requirements can be found in Section 2 of the Annex. In brief, the additional documents needed to obtain an export permit not already mentioned in this section are:

- ◆ An agreement or letter of intent between the applicant and the supplier of the electric energy abroad
- ◆ A document indicating the conditions and terms under which the permit holder will request *CFE*'s service if the importing of electricity stops.

Administrative Procedure:

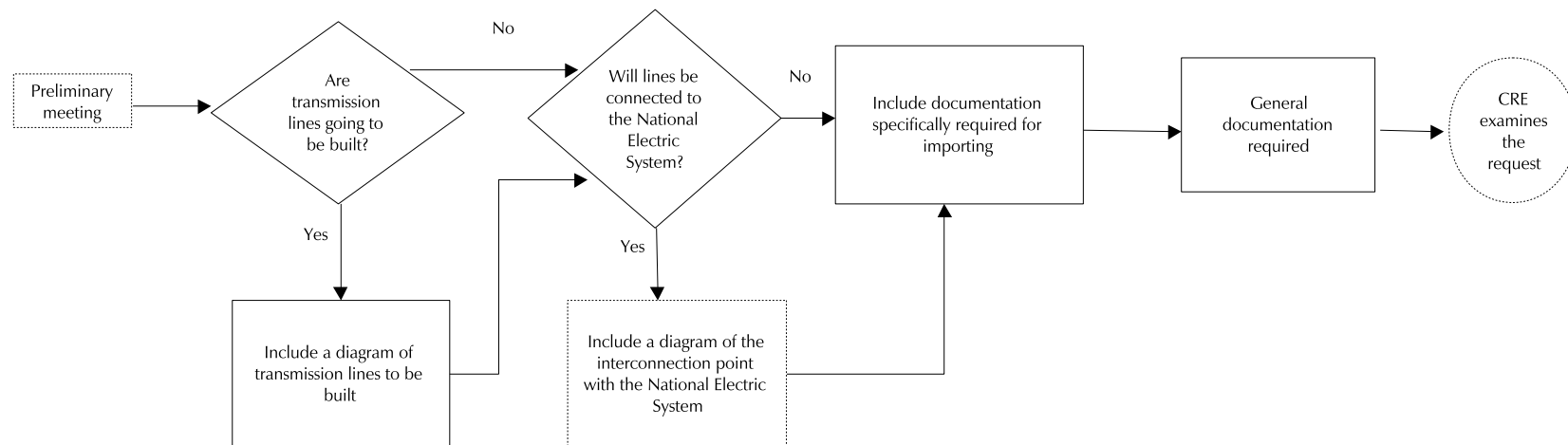
Submit general documentation required for all permit types. A detailed presentation of the general requirements can be found in Sections 1 and 2 of the Annex. Below is a summary of those requirements:

- ◆ Permit application form
- ◆ Documentation certifying the legal existence of the applicant
- ◆ Documentation certifying the legal capacity of the legal representative
- ◆ Document proving ownership or authorization to use the land to be occupied by the facilities
- ◆ General description of the project

Include documentation specifically required for importing

General documentation required

Figure 8: Particular Requirements for Importing



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

- ◆ Information on the use of waters
- ◆ Information regarding compliance with ecological standards
- ◆ Information on the use of land and soil
- ◆ When required, a technical-descriptive report.

B.1.9. Exporting

In step with its goal to encourage private investment in the power sector, the Mexican government, through *CRE*, permits cogeneration, independent production or small production permit holders to assign a portion of their electricity generation capacity for sale abroad, thereby creating an alternative revenue source for surplus production of these types of power plants.

Exporting is defined as the generation of electricity in Mexican national territory that is destined for use abroad.

B.1.9.1. Annotations for the Particular Requirements of Exporting

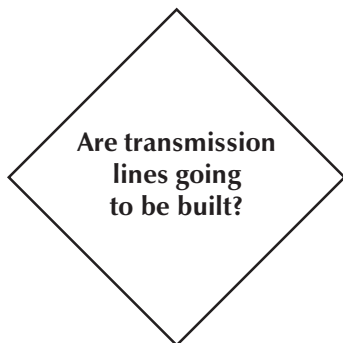
The following annotations describe each of the steps identified in Figure 9. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

Refer to Section 2 of the Annex for a complete list of the additional requirements for exporting.



Administrative Procedure:

The preliminary meeting with *CRE* (as mentioned in the annotations for the *CRE* permitting process) will help the applicant determine exactly which permit type(s) are needed. This will be based on the applicant's specific requirements, the generation characteristics of its projects and according to the person(s) who shall use the energy.



Decision Point:

Are transmission lines going to be built?

If the answer is yes:

Submit a diagram of the proposed transmission lines indicating the means that will be used to operate them. *CRE* allows holders of export per-

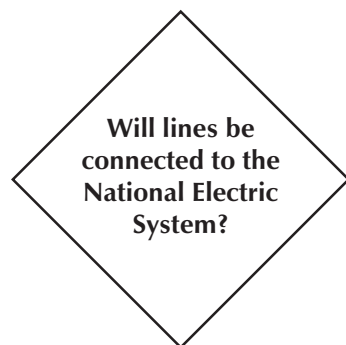
mits to build their own transmission lines to export electricity.

If the answer is no:

Proceed to the next Decision Point.

Decision Point:

Will lines be connected to the National Electric System?



If the answer is yes:

Submit a diagram showing the interconnection point(s) with the National Electric System. If the applicant does not wish to build its own transmission lines, it will be required to transmit its electricity through the National Electric System.

If the answer is no:

Proceed to the next Administrative Procedure.

Administrative Procedure:

Include a certified copy of the agreement or letter of intent between the buyer of the electricity and the permit applicant that shows the amount of electricity to be exported.

Certified copy of the agreement or letter of intent between the buyer and the permit applicant

Holders of an export permit are prohibited from transmitting any of the electricity mentioned in either the agreement or letter of intent within Mexican national territory, unless the applicant obtains permission from *CRE* to change the destination of the electric energy.

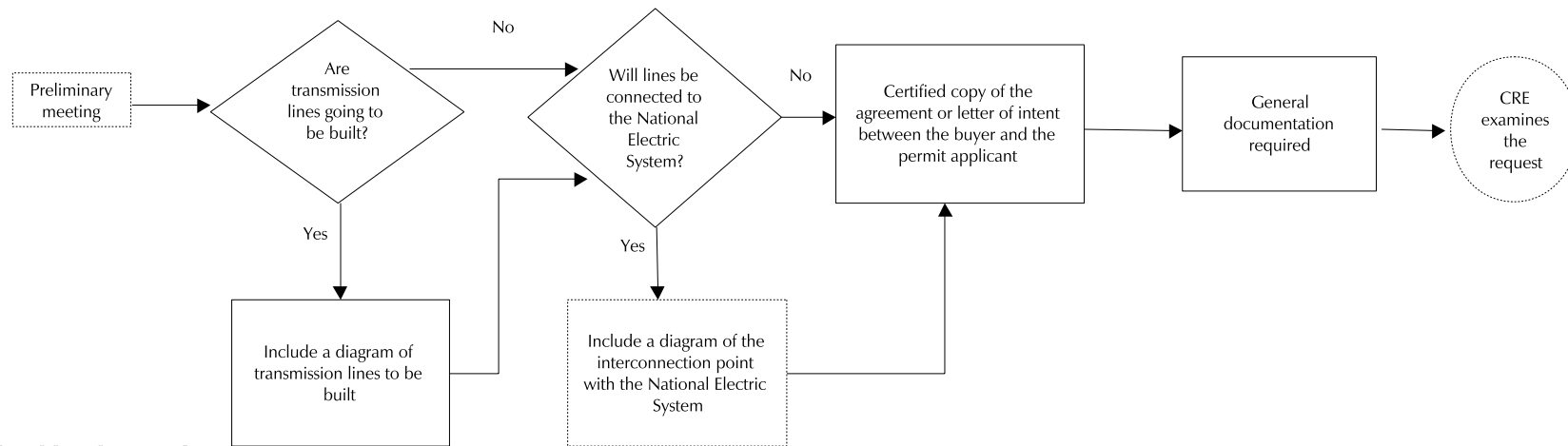
Administrative Procedure:

Submit general documentation required for all permit types. A detailed presentation of the general requirements can be found in Section 2 of the Annex. Below is a summary of those requirements:

General documentation required

- ◆ Permit application form
- ◆ Documentation certifying the legal existence of the applicant

Figure 9: Particular Requirements for Exporting



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

- ◆ Documentation certifying the legal capacity of the legal representative
- ◆ Documentation proving ownership or authorization to use the land to be occupied by the facilities
- ◆ General description of the project
- ◆ Information on the use of waters
- ◆ Information regarding compliance with ecological standards
- ◆ Information on the use of land and soil
- ◆ When required, a technical-descriptive report

B.1.10. Critical Path for CRE Gas Transmission and Storage Permits

In May, 1995, the Mexican government modified the Regulatory Law of Constitutional Article 27 in the Area of Petroleum, which significantly changed the structure of the natural gas sector. The reforms included the addition of provisions that opened the sector to private industry to build, own and operate systems for the transportation, storage and distribution of natural gas, which were activities formerly reserved to the states.

To strengthen the new principles of the modified Regulatory Law, the Congress approved the Energy Regulatory Commission Law in October 1995 and the President issued the Natural Gas Regulations in November 1995.

It is under this body of laws that *CRE* designs the procedure for the granting of permits for the transportation of natural gas as well as the necessary requirements in applying for the respective permits. These laws also vest *CRE* with the power to authorize the transfer modification, renewal, revocation or termination of natural gas permits.

Permits issued for the transportation, distribution or storage of natural gas are issued specifically to those companies that will be providing natural gas as a service to its customers. A developer of a natural gas-fired power plant for independent production, cogeneration, self-use or small production that is interested in transporting or storing fuel for its own plant is encouraged to seek a self-use natural gas permit. The laws were drafted with the intention to separate the provision of natural gas as a service from the transport or storage of natural gas for self-use. Section B.1.11 Critical Path for *CRE* Permit for Self-use of Natural Gas offers a more detailed explanation of the difference between the two permitting processes as well as a flow-chart and annotations of the permitting process for the self-use of natural gas.

CRE strongly encourages permit applicants to thoroughly read the relevant laws, regulations and norms before submitting an application. All of the documents can be found at the *CRE* website www.CRE.gob.mx.

The flowchart and annotations are meant to provide a general overview of the permitting process for natural gas as a service. Developers that are interested in obtaining a general natural gas permit should consult *CRE* for further details.

B.1.10.1. Particular Issues Regarding the Transport of Natural Gas

Natural gas transport permits are granted for a precise trajectory and specific capacity, and *CRE* retains a registry of all the trajectories for these permits. Moreover, the permit holder can deliver and extract gas at any point in the trajectory, and should advise *CRE* about the location of those points. Permit holders are not granted exclusive use of transportation pipes.

Under the terms of the Mexico's Natural Gas Regulations and the Foreign Commerce Law (*Ley de Comercio Exterior*), permit holders are allowed to freely import or export natural gas. Both importers and exporters must submit information regarding their foreign commerce activities to *CRE*.

B.1.10.2. Annotations for the *CRE* Natural Gas Permitting Process

The following annotations describe each of the steps identified in Figure 10. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

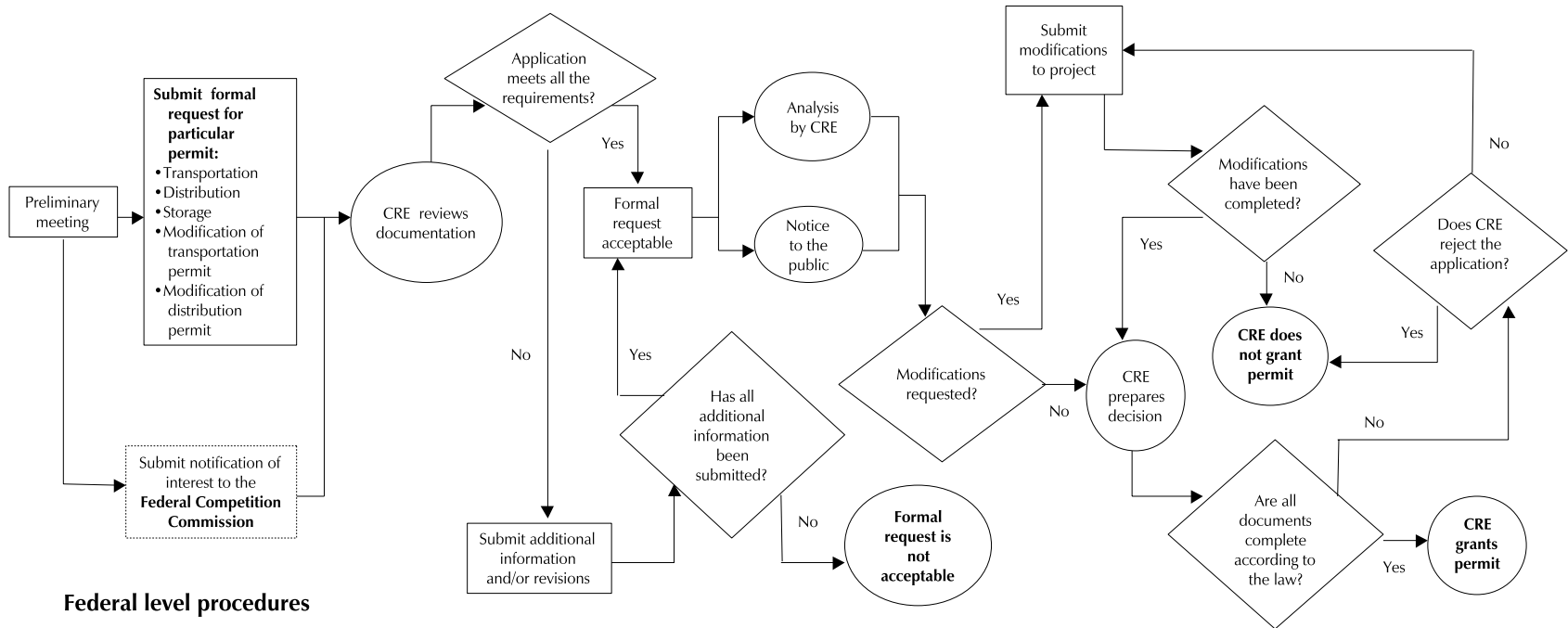
Preliminary meeting

Administrative Procedure:

This step is not mandatory, but it is highly recommended. The applicant should hold this meeting with the Executive Secretariat of *CRE* for the purpose of reviewing and clarifying specific doubts related to the preliminary version of the project and the corresponding application. Holding this meeting will significantly speed up the acceptance process, making it possible for the applicant to obtain the natural gas permit within the estimated 5-month processing period.

CRE suggests that the applicant study the regulations and applicable directives in advance and prepare a summary of the clarifications that the applicant wishes to cover, so that *CRE* may prepare itself for the meeting. The applicant may

Figure 10: Critical Path for CRE Natural Gas Transportation Permits



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

Submit formal
request for
particular permit

have specialists attend the meeting as well. The applicant may send any other questions that might arise or any doubts that might persist in writing to the Executive Secretariat.

Administrative Procedure:

Submit formal request for particular permit desired: transportation, storage, self-use transportation, self-use storage. (See Sections 6, 7 and 8 of the Annex for a comprehensive list of the requirements for natural gas permits.)

The application must be delivered in a document printed on letter size paper, including one original and three copies to the office of dispatches of *CRE*, addressed to the attention of the Executive Secretary. Each page of the original document must be numbered and initialed by the legal representative of the applicant.

Furthermore, the information of the application must be presented in a magnetic/electronic media compatible with Microsoft Office. Legal, accounting and other documents that due to their nature cannot be presented in this media are exempt.

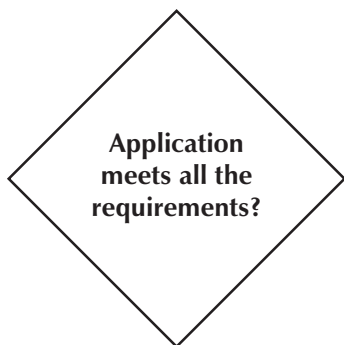
Concurrently, the applicant must notify the Federal Competition Commission (*Comision Federal de Competencia*, or *CFC*) of their interest in obtaining a natural gas permit by providing the Commission with a copy of their application for a permit or their bid proposal. The legal basis for this requirement is the Federal Law of Economic Competition (*Ley Federal de Competencia Económica*).

Administrative Response:

The President of *CRE* appoints an acting Commissioner to form a work group and coordinate the evaluation of the application.

The review process lasts 1 month. (See Section 9 of the Annex for a description of the evaluation criteria that *CRE* employs when assessing an application.)





Submit additional information and/or revisions



Decision Point:

Does the application meet all the requirements?

If the answer is yes:

The formal request is acceptable. CRE will notify the applicant by official communication that the application has been approved to begin the next stage in the permitting process.

If the answer is no:

File additional information as requested by CRE.

Administrative Procedure:

Submit additional information and/or revisions to CRE if the Executive Secretary of CRE declares that the application is incomplete.

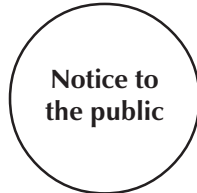
The applicant has 1 month to comply with the request, otherwise the application shall be rejected according to Article 33 of the Regulations.

Administrative Response:

After the formal request has been deemed acceptable, CRE will evaluate the application according to the criteria delineated in Article 35 of the Regulations, considering:

- ◆ Technical, administrative and financial capabilities of the applicant
- ◆ Viability of the supply sources
- ◆ Effects of the proposed project on other transportation, storage and distribution systems
- ◆ Methods and procedures for safely operating and maintaining the system
- ◆ Proposed general conditions for the provision of service
- ◆ Technical specifications of the project
- ◆ Basis for potential demand (transportation only)

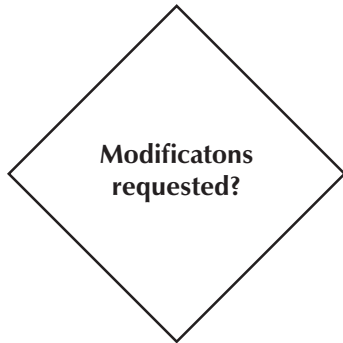
CRE may take any action it considers necessary to decide whether or not to grant a permit, such



as perform investigations, collect data, consult with federal, state and municipal authorities, or hold public meetings. *CRE* must carry out the analysis within 3 months.

Administrative Response:

Simultaneously with *CRE*'s analysis, and within 10 days of determining that the application satisfies the relevant requirements, *CRE* will publish an extract of the project in the *Official Gazette of the Diario*, as per Article 34 of the Regulations. The notice will summarize the proposed project and provide a 2-month period to receive other applications, objections or comments related to the project.



Decision Point:

Are modifications requested?

If the answer is yes:

Submit modifications for the project to the Commissioner. The time period given to complete all modifications and present the document is 3 months (Article 36 of the Regulations).

If the answer is no:

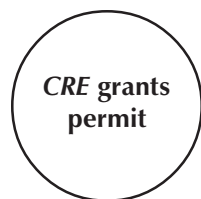
The acting Commissioner will send the application to all the members of *CRE* for their consideration.



Administrative Response:

The full membership of *CRE* receives the results of the acting Commissioner's analysis and corresponding recommendations. *CRE* evaluates the proposal, and renders its decision in one of three possible ways:

- ◆ Permit granted (application accepted)
- ◆ Permit denied (application rejected)
- ◆ Project and application require further modification.



If the project requires further modification, the applicant will have 1 month to complete the modifications and submit the document to *CRE*.

Administrative Response:

The permit will be granted within 1 month after the date of the final evaluation. At the same time, *CRE* will publish a description of the permit and the name and address of the permit holder in the *Gazeta Oficial de la Federacion*.

Duration and Renewal

Permits are valid for a period of 30 years from the date they are granted and may be renewed pursuant to the following rules of Article 53 of the Regulations:

- ◆ The application for renewal must be submitted at least 2 years before the expiration of the original term of the permit or before the expiration of any renewal term that has been authorized.
- ◆ The procedure for permit renewal shall be pursuant to procedures provided in a directive issued by *CRE*.
- ◆ Permit renewal is granted for a period of 15 years.

Multiple applicants

If there is more than one applicant, *CRE* will grant permits to all applicants that have satisfied the requirements of the “Procedure for Granting Permits upon Application,” according to Chapter 5 of the Regulations.

B.1.11. Critical Path for CRE Permit for Self-use of Natural Gas

Permits are granted under the category of self-use when the activity is exclusively to satisfy the needs of the applicant. *CRE* issues two natural gas permits of this type: transportation for self-use and storage for self-use.

Project developers of natural gas-fired power plants will most likely apply for self-use permits rather than general natural gas permits. The process to obtain a self-use permit is much less complex than that for a general natural gas permit. *CRE* performs a review of the project and documentation only once and, contrary to the general process for gas permits, there is no public notice for comments and objections. Furthermore, the duration of the self-use permit process is significantly shorter.

As opposed to the obligations impressed upon a permit holder of a general permit to transport, distribute or store natural gas, the possessor of a self-use permit is

prohibited from providing natural gas services to other parties, as per Article 71 of the Regulations. The exception to this rule is when the self-use permit holder is part of a “Self Consumption Group” of final users that consume gas for their own industrial, commercial or service uses. In an attempt to further separate the activity of providing natural gas services from the activity of consuming natural gas for industrial, service or commercial uses, *CRE* prohibits possessors of general transportation or distribution permits from holding, directly or indirectly, permits for self-use storage. Finally, permits for transportation and storage for self-use are only granted for a specific capacity, which generally corresponds to the needs of a power plant or a defined group of commercial end-users.

All permit holders are subject to the safety obligations pursuant to Article 70 of the Regulations (See Section 6 of the Annex).

CRE strongly encourages permit applicants to thoroughly read the relevant laws, regulations and norms before submitting an application. All of the documents can be found at the *CRE* website www.CRE.gob.mx. According to *CRE*, the following documents are the most important for self-use natural gas permits:

- ◆ Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petroleo
- ◆ Reglamento de Gas Natural
- ◆ All of the applicable Normas Oficiales Mexicanas, especially:
 - NOM 1 about the quality of natural gas
 - NOM 2 about installations needed to profit from natural gas
 - NOM 7 about the transport of natural gas.

B.1.11.1. Restrictions upon Transportation for Self-use in Geographic Zones

To foster the development and growth of natural gas distribution services according to national and regional priorities, *CRE* manages the establishment and modification of geographic zones for natural gas distribution. A permit for a geographic zone grants exclusivity of distribution to the permit holder. When a request for a “transportation for self-use” permit is submitted within the exclusive geographic zone of a distributor where an applicant or any of the members of a self-consumption group are located, the law imposes a minimum average daily consumption, on an annual basis, on the applicant or the consumption group. A copy of the Directive on the Determination of Geographic Zones for Natural Gas Distribution can be found in Section 7 of the Annex. Below is a summary of the consumption minimums.

Within the first 2 years of exclusivity, an average daily consumption of 60,000 m² on an annual basis is required.

During the third and fourth years of the exclusivity period, an average daily consumption of 30,000 m² is required.

Beginning in the fifth year of the period of exclusivity, there is no minimum consumption imposed on the holder of a transportation for self-use permit.

B.1.11.2. Annotations for Granting, Modifying and Transferring Permits for Self-use of Natural Gas

The following annotations describe each of the steps identified in Figure 11. This section is organized to follow the Critical Path Diagram from left to right, with separate annotations for each Administrative Procedure, Decision Point or Administrative Response.

The processes for obtaining and modifying permits for the self-use of natural gas are identical.



Decision Point:

Is the intended activity to receive, transmit, deliver or store natural gas exclusively to satisfy the needs of the applicant?

If the answer is yes:

Proceed to the next Decision Point on the diagram. The applicant will be following the procedure to obtain or modify permits for the self-use of natural gas.

If the answer is no:

Submit an application for a permit to be a provider of natural gas services. Refer to Figure 10 and the accompanying annotations for more information on this process. *CRE* defines three activities for which an applicant can request a permit to be able to provide natural gas services: transportation, distribution and storage.

Decision Point:

Is the applicant requesting the transfer of a permit?

If the answer is yes:

Submit an application for transfer of permit.

If the answer is no:

Proceed to the next Decision Point on the diagram.

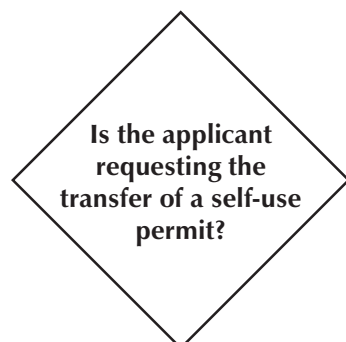
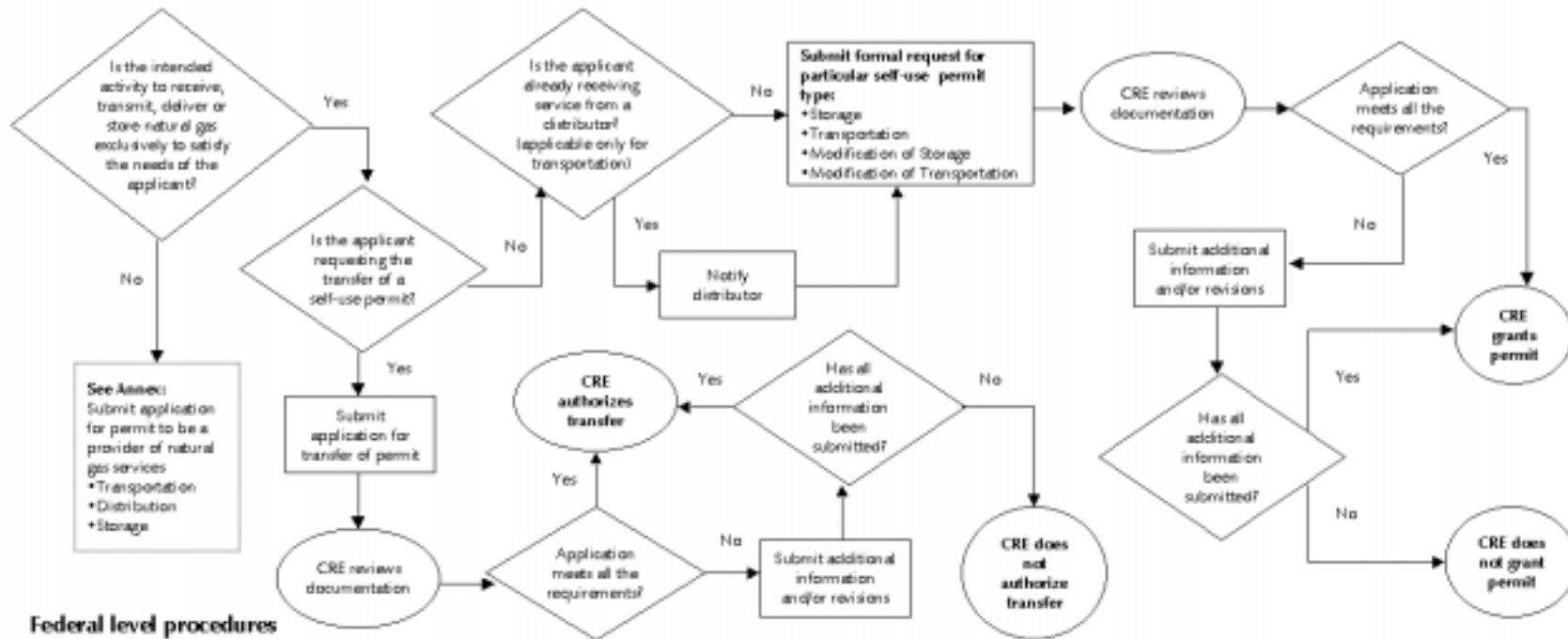


Figure 11: Procedures for Granting, Modifying and Transferring Permits for Self-use of Natural Gas



Federal level procedures

State level procedures

Municipal level procedures

This Page Intentionally Left Blank

Submit application
for transfer of
permit

CRE reviews
documentation

Application meets all
the requirements?

CRE
authorizes
transfer

Administrative Procedure:

Present application for transfer of permit to *CRE*. According to Article 57 of the Regulations, an applicant for a transfer permit must provide evidence of the following:

- ◆ Compliance with the requirements to be a permit holder.
- ◆ A commitment to fulfill the obligations established in the permit.

Administrative Response:

CRE reviews the documentation to determine whether or not it satisfies all the requirements.

Decision Point:

Does the application meet all the requirements?

If the answer is yes:

CRE authorizes the permit transfer within 1 month of receiving the application.

If the answer is no:

CRE notifies the applicant that the documentation does not satisfy all the requirements or that the information submitted is insufficient. The applicant has 1 month to correct all deficiencies and resubmit the application, or *CRE* will dismiss the application.

Administrative Response:

Transferred permits are valid until the original expiration date and are subject to all the conditions of granted permits.



Decision Point:

Is the applicant already receiving service from a distributor?

If the answer is yes:

Prior to obtaining a transportation for self-use permit, the applicant must notify the distributor at least 3 months before the application for the permit is submitted. This requirement does not apply for storage for self-use permits.

If the answer is no:

Present application to *CRE*.



Administrative Procedure:

Submit formal request for the particular type of the self-use permit the applicant is seeking. The requirements for all self-use natural gas permits are identical, including the modification of permits for either storage or transportation. A complete list of the requisite documentation is in Section 10 of the Annex.

The applicant should also pay the appropriate fee for self-use permit when submitting the application. Fees are charged to cover the cost of evaluating the solicitation and granting of the permit. *CRE* will not grant a permit without receiving the permit fee.



Administrative Response:

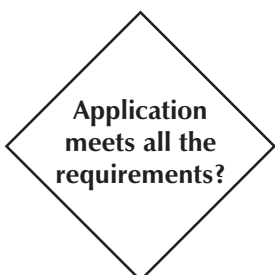
CRE reviews the documentation to determine whether or not it satisfies all the requirements.

Decision Point:

Does the application meet all the requirements?

If the answer is yes:

CRE grants the permit to the applicant within 1 month of receiving the application.





If the answer is no:

CRE notifies the applicant that the documentation does not satisfy all the requirements or that the information submitted is insufficient. The applicant has 1 month to correct all deficiencies and resubmit the application, or *CRE* will dismiss the application.

Administrative Response:

Permits are valid for a period of 30 years from the date granted and may be renewed pursuant to the following rules of Article 53 of the Regulations:

- ◆ The application for renewal must be submitted at least 2 years before the expiration of the original term of the permit or before the expiration of any renewal term that has been authorized.
- ◆ The procedure for permit renewal shall be pursuant to procedures provided in a directive issued by *CRE*.
- ◆ Permit renewal is granted for a period of 15 years.

Termination of Permits

According to Article 54 of the Regulations, permits shall be terminated due to:

- ◆ Expiration of the original term or an authorized renewal term of the permit
- ◆ Early termination requested by the permit holder and granted by *CRE* pursuant to the Regulations (the permit holder should notify *CRE* 1 year in advance of the anticipated termination)
- ◆ Operation of administrative or judicial order or law
- ◆ Revocation pursuant to law.

Revocation of Permits

CRE may revoke a permit for any of the reasons established in Article 13 of *LSPEE* (see Section 12 of the Annex). The permit holder should be aware that some of these conditions apply only to permits for the provision of natural gas services.

B.1.12. Time Requirements for Permits

B.1.12.1. Estimated Time Requirements for Granting and Modifying Electricity Generation Permits

The overall time necessary for the granting or modifying of any electricity generation, import or export permit is a minimum of 70 business days, as shown in Table 1. The suggested preliminary meeting with *CRE* and the preparation needed for that meeting are not included in time requirement calculations, and are a processes that could take a couple of months. Current regulations establish maximum periods of time for *CRE* to complete specific administrative procedures. Nonetheless, in cases that *CFE* requires modifications to the proposal, the process can be significantly longer.

Table 1: Time Required for the Granting of Electricity Generation Permits

Administrative Process or Filing	Time Period
Examination of the Request	10 business days
Modifications (if necessary)	10 business days
Opinion of the Utility	30 business days <i>(in parallel with CRE analyses)</i>
Technical and Economic Analyses of <i>CRE</i>	30 business days <i>(in parallel with opinion of the utility)</i>
Modifications or Technical-descriptive Report <i>(if necessary)</i>	10 business days
Re-analysis by <i>CRE</i> <i>(if necessary)</i>	30 business days
Granting of the Permit	Immediate, if proposal is accepted

Source: *CRE*

The procedure to transfer an electricity generation, import or export permit from one entity to another requires a minimum of 20 business days from the point that *CRE* receives the application, as shown in Table 2. *CRE* does not suggest a preliminary meeting, although contacting *CRE* before submitting an application for the transfer of an electric generation permit could help expedite the process. As previously mentioned, current regulations establish maximum periods of time for *CRE* to complete specific administrative procedures, and requests by *CFE* to modify the proposal could considerably slow down the process.

B.1.12.2. Estimated Time Requirements for Natural Gas Permits

The overall time necessary for any of the general natural gas permits is a minimum of 5 months, or 150 calendar days, as shown in Table 3. The suggested preliminary meeting with *CRE* and the preparation needed for that meeting are not included in

Table 2: Time Required for the Transfer of Electricity Generation Permits

Administrative Process or Filing	Time Period
Review of the Documentation	20 business days
Modifications (<i>if necessary</i>)	10 business days
Re-analysis by <i>CRE</i> (<i>if necessary</i>)	20 business days
Granting of the Permit (<i>after submittal of the transfer of rights contract</i>)	Immediate

time requirement calculations and could themselves take a couple of months. Current regulations establish maximum periods of time for *CRE* to complete specific administrative procedures. Nonetheless, in cases where *CFE* requires modifications to the proposal, the process can be significantly longer.

Table 3: Time Required for the Granting of General Natural Permits

Administrative Process or Filing	Time Period
Review of Documentation	1 month
Modifications (<i>if necessary</i>)	1 month
Publication of Project Extract	10 calendar days
Public Comments or Objections	2 months (<i>in parallel with CRE evaluation</i>)
<i>CRE</i> Evaluation of the Project	3 months
Modifications (<i>if necessary</i>)	3 months
Granting of the Permit	Immediate, <i>if proposal is accepted</i>

Source: *CRE*

The procedure for obtaining natural gas transport or storage permits for self-use or to transfer a natural gas self-use permit from one entity to another requires a minimum of 1 month from the point that *CRE* receives the application, as shown in Table 4. *CRE* does not suggest a preliminary meeting, although contacting *CRE* before submitting an application for a natural gas self-use permit could help expedite the process. As previously mentioned, current regulations establish maximum periods of time for *CRE* to complete specific administrative procedures, and requests by *CFE* to modify the proposal could considerably slow down the process.

Table 4: Time Required for the Granting or Transfer of Self-use Natural Gas Permits

Administrative Process or Filing	Time Period
Examination of the Request	1 month
Modifications (<i>if necessary</i>)	1 month
Granting of the Permit	Immediate, <i>if proposal is accepted</i>

B.1.13. Estimated Cost of Obtaining Required Permits

Applicants must pay a fee for electric energy and natural gas permits. This fee is paid to cover the analysis and evaluation of the permit application, as well as the administrative costs incurred during the process.

CRE has required applicants to pay fees since January 1, 1999. Applicants need to obtain Form Number 5 of the Tributary Services Administration (*Servicio de Administración Tributaria*), the *Declaración General de Pago de Derechos*. An original and two copies of the form must be submitted to *CRE*, and the form must include the following:

- ◆ The corresponding code (for electricity permits it is 358 and for natural gas permits it is 360)
- ◆ The particular type of permit the applicant is requesting
- ◆ The corresponding cost in conformity with Articles 56 and 57 of the Federal Law of Fees (*Ley Federal de Derechos*).

This payment may be made in any bank branch in the Federal District (*Distrito Federal*) or any other federal jurisdiction of the Republic.

B.1.13.1. Cost of Electric Generation Permits

Every year, in conjunction with the passage of the Federal Budget (*Ley de Ingresos*), permit fees are established for each electric generation permit type. Fees are increased on a quarterly basis to match increases in inflation. Current fees are presented in Table 5. The code for electricity permits is 358, assigned by the Tributary Services Administration.

The cost to obtain certified copies (per page) is the following:

- ◆ First copy: \$9.78 (pesos)
- ◆ Additional copies: \$9.78 (pesos)

Electric Generation Permit Type	Fees in Mexican Pesos (July–December 2001)
Self-supply, cogeneration, small production, exporting and importing	64,979.00
Independent production	129,961.00
Modification of an electric generation permit for self-supply, cogeneration, small production, exporting or importing	18,779.00
Modification of an electric generation permit for independent production	37,555.00

Source: CRE
Fees are valid for July–December 2001. Please contact CRE for updated values.

The code for the expedition of certified copies is 260, assigned by the Tributary Services Administration.

B.1.13.2. Cost of Natural Gas Permits

Every year, in conjunction with the passage of the Federal Budget, permit fees are established for each natural gas permit type. Fees are increased on a quarterly basis to match increases in inflation. Current fees are presented in Table 6.

The code for natural gas permits is 360, assigned by the Tributary Services Administration.

The cost to obtain certified copies (per page) is the following:

- ◆ First copy: \$9.78 (pesos)
- ◆ Additional copies: \$9.78 (pesos)

The code for the expedition of certified copies is 260, assigned by the Tributary Services Administration.

B.1.14. Critical Path for Bidding and Bid Proposal Development

Public bidding is the general method established by the Constitution (Article 134) for procurement of goods and services and issuance of contracts with the government. Public bidding can be national or international: it is national when only physical entities of Mexican nationality may participate, and it is international when

Table 6: Fees for CRE Natural Gas Permits

Natural Gas Permit Type	Fees in Mexican Pesos (July–December 2001)
Permits for the distribution of natural gas not granted through bidding	119,690.00
Permits for the distribution of natural gas granted through bidding	59,844.00
Permits for the transport of natural gas	119,690.00
Permits for the self-use of natural gas	59,844.00
Permits for the storage of natural gas	104,809.00
Modification of permits for the distribution of natural gas not granted through bidding	26,202.00
Modification of permits for the distribution of natural gas granted through bidding	26,202.00
Modification of permits for the transport of natural gas	26,202.00
Modification of permits for the self use of natural gas	26,202.00

Source: CRE

Fees are valid for July–December 2001. Please contact CRE for updated values.

national entities as well as foreign entities may participate.

LSPEE states that the public bidding will only be international when an international treaty or agreement makes it obligatory to do so; when, through previous assessment of the market, it is demonstrated that local entities do not have the capacity to execute the necessary work; or when the cost of a planned project can be reduced with external credits granted to the federal government and it is necessary to conduct international public bidding to receive those credits.

CFE also has the authority to require that a certain percentage of material, machinery or equipment of Mexican origin be included in the work.

Two bid types are reviewed in this section. There are differences in the conditions and requirements in each case, and these are detailed in this section. The first is the format for Independent Power Producer (*Productor Independiente de Energía*, or IPP) bids, where CFE requests proposals for the construction and operation of a power plant by private bidders, with CFE awarding a long-term PPA, generally for 25 years, to the winner. The second involves Publicly Financed Turn-key Projects (*Obra Pública Financada*, or OPF), which typically have included transmission lines, substations and other infrastructure, although some generation stations have also been

built through these types of contracts.

The flowchart presented in Figure 12 provides a summary of the process. The annotations in the following section describe the process in greater detail.

B.1.14.1. Annotations to the Critical Path for Bidding and Bid Proposal Development

This section provides additional detail regarding the critical path for bidding and bid proposal development. Figure 12 summarizes the process generally to make it applicable to both the *IPP* and the *OPF* bids typically issued by *CFE*. The annotations provided here will assist in distinguishing between the requirements of the *IPP* and *OPF* bids. A detailed listing of the requirements for each type of bid is also presented in Section B (see Sections B.3.1.1.1 and B.3.3.1.1).

Public announcement: Announcement of the international or public bid will be made in the *Diario Oficial de la Federación*. Generally this announcement may be anticipated by *CFE* in its expansion plan, which is presented in the *Documento de Prospectiva para el Sector Eléctrico* and other documents. The announcement will specify the period during which the bid documents will be available for purchase.

Filing: Interested bidders may acquire the bid documents through the presentation of a written request and payment of the fee. The amount of this fee may vary depending on the project. For generation projects, it is likely to be in the range of \$1,000 to \$2,000.

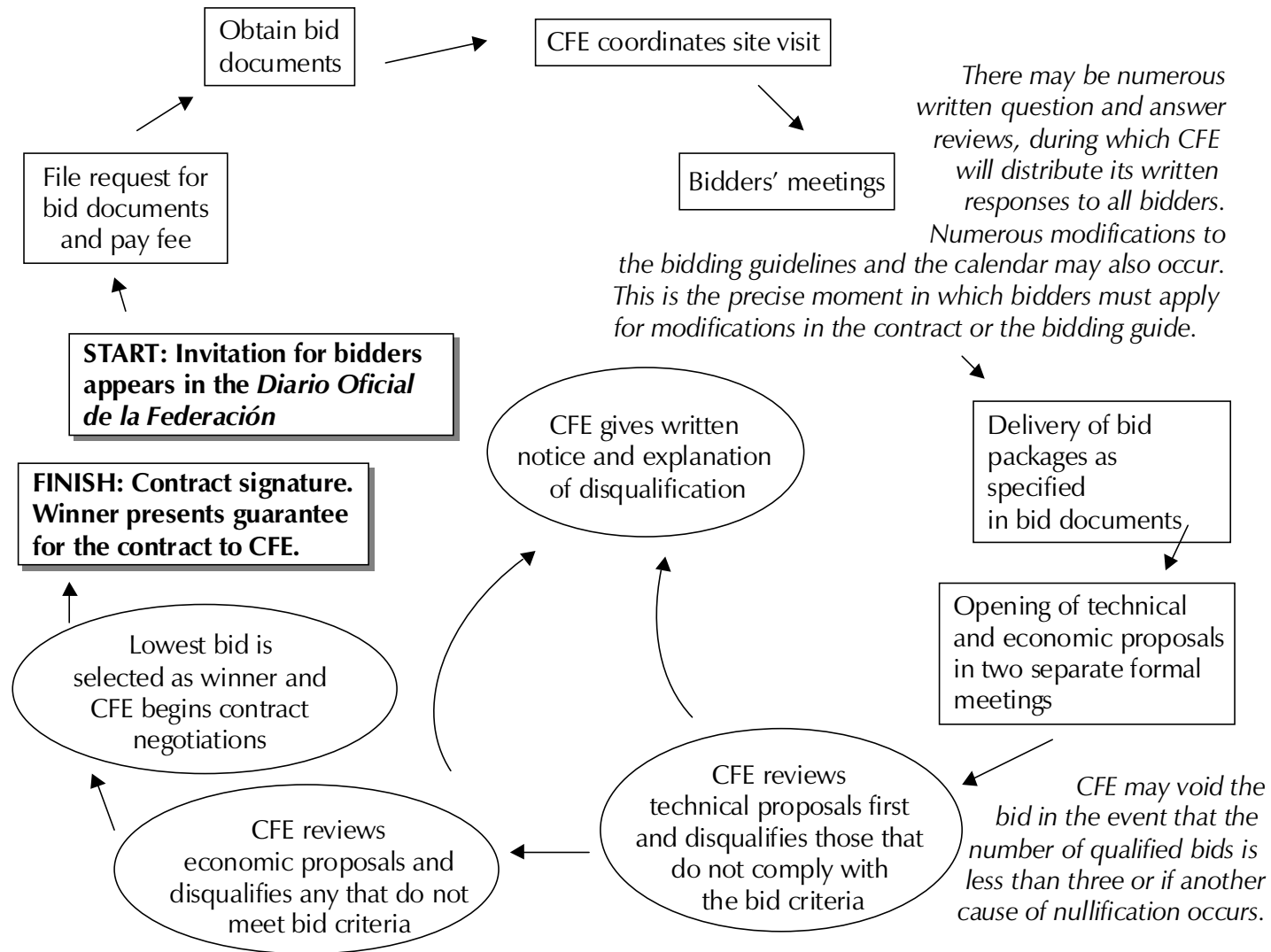
There is no requirement that the potential bidders that acquire the bid documents should indicate to *CFE* whether they are associated with another firm or included in a consortium. However, there are a series of requirements for consortia that must be adhered to when the final bid is presented.

However, *CFE* does require that each potential bidder that acquires the bid documents have a contact person in Mexico to receive official communications, revised versions of the bid documents and to assist in scheduling of the site visit.

Filing: Between the date of the bid announcement and the deadline for presentation of proposals, *CFE* will schedule as many bidders' meetings as may be necessary and ensure that any questions from bidders are duly answered and that the replies are sent to all bidders. Bidders will be required to file their questions in writing to *CFE* in this process.

The *CFE* will also schedule a site visit—more than one, should it prove necessary—that will include the proposed physical location for the project, the point of interconnection and any other important features of the proposed project.

Figure 12: Critical Path for Bid Preparation, Submission and Review



This phase of the bid process is crucial for the bidders because it is the only time when changes may be made to the proposed contract and/or the technical specifications for the project. Once the winner is declared, it is no longer possible for *CFE* to make modifications to the contract.

Filing: Bidders will be required to submit their proposals in two packages: the first package containing the technical proposal and the second package containing the economic proposal. A detailed presentation of required documentation in each package is included in Section B.3.—except for the technical, and any relevant financial/economic specifications that by their nature cannot be described in general terms here.

The following general observations for *IPP* bids are important:

- ◆ Proposals must be in Spanish. In cases where legal and other documents used in the proposal are drafted in another language, a faithful translation to Spanish should be included. Financial statements and technical information may be presented in English.
- ◆ There will be requirements for a percentage of the engineering, construction and supply to be provided by Mexican service providers.
- ◆ Proposals must be valid for 180 days or as specified in the bid documents.
- ◆ The winning bidder will have to constitute special purpose corporation (*Sociedad de Propósito Específico*, or *SPC*).
- ◆ The winning bidder must be domiciled in Mexico (unless it is domiciled in the United States or Canada, in which case a permanent office will suffice).
- ◆ The pages of the original proposal and all copies must be numbered consecutively.

The following are technical proposal requirements for *IPP* bids:

- ◆ Identification of person presenting proposal on behalf of bidding company or consortium.
- ◆ Statement regarding legal capacity to present proposal and execute contract, if selected.
- ◆ Statement regarding selection of Optional Site or plans to present Alternative Site.
- ◆ Statement indicating whether bidder attended site visit or not.
- ◆ Statement as to whether bidder will construct additional capacity or not.
- ◆ Contact information for bidder or members of consortium.
- ◆ Notarized powers of attorney that establish the legal authority of the bidder

representatives to sign the letter of guarantee. Bidder representatives must also initial all pages of the proposal.

- ◆ Articles of incorporation of bidder.
- ◆ Commitment letter, following exactly the outline contained in the bid documents.
- ◆ Proposal guarantee, based on the outline contained in the bid documents.
- ◆ Copy of the draft contract, initialed to signal knowledge of its contents.
- ◆ Financial statements.
- ◆ Documentation of equity ownership of the company.
- ◆ Statement confirming that the bidder complies with requirements on capacity and experience in the areas identified in the bid documents.

The following are economic proposal requirements for *IPP* bids:

- ◆ Detailed presentation of the economic and financial offer.
- ◆ In a sealed envelope, the application (to the *CRE*) for an *IPP* permit.

The following general observations for *OPF* bids are important:

- ◆ Proposals must be in Spanish. In cases where legal and other documents used in the proposal are drafted in another language, a faithful translation to Spanish should be included. Financial statements and technical information may be presented in English.
- ◆ There will be requirements for a percentage of the engineering, construction and supply to be provided by Mexican service providers.
- ◆ Proposals must be valid for 120 days or as specified in the bid documents.
- ◆ Neither proposals nor bid documents may be negotiated, and those proposals containing or imposing explicit or implicit conditions will be disqualified.
- ◆ The pages of the original proposal and all copies must be numbered consecutively.

The following are technical proposal requirements for *OPF* bids:

- ◆ Identification of person presenting proposal on behalf of bidding company or consortium.
- ◆ Letter containing name, signature and initials of the person authorized to present the proposal and letter of commitment.

- ◆ Statement indicating that conditions cited in Article 51 of the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*, or *LOPSR*) do not apply to the bidder or any consortium member.
- ◆ Statement indicating that foreign-made goods are priced at market levels, without subsidies or recourse to a “dumping” strategy.
- ◆ Contact information for bidder or members of consortium.
- ◆ Notarized powers of attorney that establish the legal authority of the bidder representatives to sign the letter of guarantee. Bidder representatives must also initial all pages of the proposal.
- ◆ Articles of incorporation for bidder.
- ◆ Copy of the draft contract, initialed to signal knowledge of and agreement with its contents.
- ◆ Financial statements for last two financial periods demonstrating that bidder meets minimum capitalization requirements.
- ◆ Documentation of equity ownership of the company.
- ◆ Statement confirming that the bidder complies with requirements on capacity and experience in the areas identified in the bid documents.

A letter of commitment, using the exact format established in the bid documents, is required for economic proposals for *OPF* bids.

At this point, *CFE* reviews the technical proposals first. At least two representatives of *CFE* and one representative of the bidder must sign both of the technical proposals that were established in the bidding rules and the sealed envelopes containing the economic proposals, which will remain in hands of *CFE*. If necessary, *CFE* will set a new date, place and time to open the economic proposals.

CFE will disqualify any proposals that do not meet the technical specifications established in the bid documents. In the event that this occurs, *CFE* will announce the disqualification of any bidder(s) and the justification for doing so in a public meeting held to announce the results of the technical review. In the event of disqualifications and/or poor bidder turn-out, *CFE* may also determine that the conditions for holding the bid established in the Public Acquisitions Law (LAP) cannot be met, and will therefore announce that the bid has been voided.

Following the technical review, *CFE* will review the economic proposals for those bidders whose technical proposals qualified for consideration. As in the previous step, *CFE* will announce the disqualification of any bidders and the justification for this action in a public meeting held to announce the results of the economic review and the announcement of the winning bidder.

At least two representatives of *CFE* and one representative of the bidder must sign the economic proposals. At this point the date, place and time of the final decision will be announced.

LSPEE compels public agencies and organizations to refrain from accepting proposals and executing contracts with any legal entity that is impeded due to reasons expressed in Article 51 of *LSPEE*, among which are the following two instances: (1) when a public official or functionary who intervenes, in any way, in the award of the contract has a personal, family or business interest that might benefit that public official, and (2) when any contractor has previously had a contract administratively annulled due to actions attributable to the contractor.

Contract Finalization and Execution

CFE immediately finalizes the contract for signature. In the case of *IPP* bids, at the time the contract is signed the winning bidder is required to deliver the original documentation of the contract guarantee presented in the proposal.

B.1.15. Matrix of Permitting Requirements

Table 7 provides information concerning the category that each legal step falls under (permit, registration or administrative procedure). The matrix also includes the relevant authorities that must be contacted or, in the case of ownership, the relevant counterpart and which party is responsible for both obtaining and maintaining legal documents. In addition, the matrix illustrates which project categories require the fulfillment of each particular legal step for both financed public works and approved *CRE* project types. Finally, the matrix will show the approximate time that is required for a permit, registration or administrative procedure to be processed.

Glossary

C	Cogeneration
O&M	Operations and Maintenance
CFC	Federal Competence Commission
PEMEX	Mexico's national oil company
CNA	National Water Commission
R/W	Rights of Way
CFE	Federal Electricity Commission
Sub	Substations
CRE	Energy Regulatory Commission

SCT	Secretariat of Communications and Transportation
DPW	Department of Public Works
SENER	Energy Secretariat
FFCC	National Trains and Railways
SE	Secretariat of Economy
I	IPP
SEDENA	Secretariat of National Defense
Im	Importation
SEMARNAT	Secretariat of the Environment and Natural Resources
INE	National Institute of Ecology
SS	Self-Supply
MIA	Environmental Impact Statement
SS	Secretariat of Health
NOM	Official Mexican Standard
STPS	Secretariat of Labor and Social Security

Table 7: Matrix of Permitting Requirements

Permitting and Administrative Requirements

<i>Description of Permit, Registration or Administrative Procedure</i>	<i>Authority/Counterpart</i>	<i>Party Responsible for</i>		<i>Financed Public Works Permits</i>				<i>CRE Permit Type</i>			
		<i>Obtaining</i>	<i>Maintaining</i>	<i>T</i>	<i>Sub</i>	<i>I</i>	<i>I</i>	<i>Ss</i>	<i>C</i>	<i>Im</i>	<i>T</i>
<i>Ownership of land, rights of way, ownership of other project assets</i>											
Ownership of site for project	Current owner	CFE/Developer	Developer				✓	✓	✓		
R/W for electric lines	Current owner	CFE/Developer	Developer				✓	✓	✓	✓	
R/W for gas lines (Mexico)	Current owner	CFE/Developer	Developer				✓	✓	✓		
R/W for gas lines (foreign)	Current owner	CFE/Developer	Developer				✓	✓	✓		
R/W for aqueduct	Current owner	CFE/Developer	Developer				✓	✓	✓		
R/W for access road	Current owner	CFE/Developer	Developer				✓	✓	✓	✓	
R/W for electric lines (excess)	Current owner	Developer	Developer				✓				
MIA for fuel distribution system	SEMARNAT	CFE/Developer	Developer				✓	✓	✓		
<i>Federal environmental permits</i>											
Decision on MIA filing	SEMARNAT	CFE/Developer	Developer				✓	✓	✓	✓	
Approval of risk study	SEMARNAT	CFE/Developer	Developer				✓	✓	✓	✓	
Decision on MIAs for additions	SEMARNAT	Developer	Developer				✓				
Approval of additional risk study	SEMARNAT	Developer	Developer				✓	✓	✓	✓	
Authorization of land use change	SEMARNAT	Developer	Developer				✓	✓	✓	✓	
Environmental license	SEMARNAT	Developer	Developer				✓	✓	✓	✓	
Operating license	SEMARNAT	Developer	Developer				✓	✓	✓	✓	
Open-air combustion permit	SEMARNAT	Developer	Developer				✓	✓	✓		
Auth. changes forest zones	SEMARNAT	CFE	CFE	✓	✓						
MIA	SEMARNAT	CFE	CFE	✓	✓	✓					
<i>Federal Water Resource Permits</i>											
Concession title for waster use	CNA	CFE/Developer	Developer				✓	✓	✓		
Registration in APP	CNA	CFE/Developer	Developer				✓	✓	✓		
Certificate for brackish waters	CNA	CFE/Developer	Developer				✓	✓	✓		
Payment of discharge fees	CNA	CFE/Developer	Developer				✓	✓	✓		
<i>Other Federal Authorizations</i>											
Notification to CFC	CFC	Developer	Developer				✓	✓	✓	✓	
Hydrostatic tests notification	SE	Developer	Developer				✓	✓	✓		
License to use explosives	SEDENA	Developer/ Contractor	Developer/ Contractor			✓	✓	✓	✓	✓	
Highway connection/crossing permit	SCT	Developer	Developer				✓	✓	✓	✓	
Permit for radio/satellite comm.	SCT	Developer	Developer				✓	✓	✓	✓	
Railroad crossing permit	SCT	Developer	Developer				✓	✓	✓	✓	

Table 7: Matrix of Permitting Requirements (continued)

<i>Description of Permit, Registration or Administrative Procedure</i>	<i>Authority/Counterpart</i>	<i>Party Responsible for</i>		<i>Financed Public Works Permits</i>				<i>CRE Permit Type</i>			
		<i>Obtaining</i>	<i>Maintaining</i>	<i>T</i>	<i>Sub</i>	<i>I</i>	<i>I</i>	<i>Ss</i>	<i>C</i>	<i>Im</i>	<i>T</i>
Sanitary license	SS	Developer	Developer				✓	✓	✓	✓	
Register for security and hygiene	STPS	Developer	Developer				✓	✓	✓	✓	
License of operation of machinery	STPS	Developer	Developer				✓	✓	✓	✓	
Register for capacitating/training	STPS	Developer	Developer				✓	✓	✓	✓	
Registration for vapor generators	STPS	Developer	Developer				✓	✓	✓	✓	
Register hoisting and crane equipment	STPS	Developer	Developer				✓	✓	✓	✓	
License for high pressure equipment	STPS	Developer	Developer				✓	✓	✓	✓	
Registration of pressure containers	STPS	Developer	Developer				✓	✓	✓	✓	
Permission of river crossing	CNA	Developer	Developer				✓	✓	✓	✓	
Use of maritime terrestrial zone	SEMARNAT	Developer	Developer				✓	✓	✓	✓	
INAH construction license	INAH	CFE	CFE	✓		✓					
Permission for R/W to cross federal railways, pipelines, roads and communication lines	Municipality, SCT, PEMEX, FFCC	CFE	CFE	✓		✓					
Permission for R/W to abut federal highways, railways or other infrastructure	SCT, State and Municipal Gov.	CFE	CFE	✓		✓					
Federal Authorizations for Pipe Lines											
Permit to transport gas for own use	CRE	Developer	Developer				✓	✓	✓		
Notice of contingency	CRE	Developer	Developer				✓	✓	✓		
Reporting of accidents	CRE	Developer	Developer				✓	✓	✓		
Program system maintenance	CRE	Developer	Developer				✓	✓	✓		
Registration for supervision and O&M	CRE	Developer	Developer				✓	✓	✓		
State and Municipal Authorizations³											
Land use license	Municipality	CFE/Developer/Contractor	Developer			✓	✓	✓	✓	✓	
Construction license	Municipal DPW	Developer	Developer				✓	✓	✓	✓	
License to open industrial installation	State Health Secretary	Developer	Developer				✓	✓	✓	✓	
Sanitary license	Municipality	Developer	Developer				✓	✓	✓		
Permit for noise, vibrations and thermal energy (not routine activity)	Municipality	Developer	Developer				✓	✓	✓		
Municipal construction license	Municipal DPW	CFE	CFE	✓	✓	✓					

³ Note that permission for T/W to cross federal railways, pipelines, roads and communication lines must be obtained from the local municipal government and permission for T/W to abut federal highways, railways or other infrastructure must be obtained from both the municipal and state governments.

B.2. Legal or Administrative Obligations of Recipients of Permits, Licenses and Registrations or Other Administrative Procedures

This section covers the institutions that administer the different taxes involved in the permit process and an explanation of the functions of each of the different secretariats. This includes the Federal Income Tax, the Value Added Tax (*Impuesto de Valor Agregado*, or VAT), the Capital Assets Tax, the Import Tax, the Payroll Tax and the Real State Acquisition Tax.

B.2.1. Federal Authorities with Jurisdiction in Permitting and Administrative Processes

B.2.1.1. Secretariat of Finance and Public Credit (Secretaría de Hacienda y Crédito Público, or SHCP)

SHCP has, among others, the following functions:

- ◆ To study and generate fiscal laws and regulations and revenue laws for the Federation and the Federal District.
- ◆ To manage the debt of the Federation and Federal District.
- ◆ To execute or authorize all operations in which public credit is used.
- ◆ To establish and review prices and tariffs of federal and administrative property and services, and the rules to fix them.
- ◆ To levy taxes, collect contributions for specific improvements to federal infrastructure, oversee permits and rights to use of federal properties, and ensure fiscal discipline of government agencies.
- ◆ To organize and manage customs services.
- ◆ To project and estimate the expenses of the federal government and the public sector administration.
- ◆ To create the federal public expenditure program and the budget of the Federation and Federal District.
- ◆ To evaluate and authorize public investment programs of federal public entities.
- ◆ To carry out the processing and registration that requires surveillance and evaluate federal public expenditures and expense budgets.

Federal Taxes

Income Tax Law

The Income Tax Law legally obligates the following entities to pay:

1. Mexican residents, based on their income, whatever the source of their income may be. A resident of Mexico is a person who has established residence in the country, except, if during the calendar year that person has stayed more than 183 days—consecutively or not—out of the country. Furthermore, a resident of Mexico is a legal entity that has been created in conformity with Mexican law, as well any entity that has established the full administration of its businesses or its senior management in Mexico.
2. Residents outside Mexico that have a permanently established business or physical base in Mexico, with respect to income attributable to businesses or activities in Mexico.
3. Residents outside Mexico and have sources of income coming from Mexico, and don't have a permanent residence in Mexico.
 - ◆ The tax rate is 30 percent and 35 percent when profits are reinvested.
 - ◆ The Income Tax Law restricts deductions on the depreciation of assets and how to carry out the depreciation of assets.
 - ◆ Residents living in Mexico, who pay residents working outside Mexico, must still retain income taxes.

Value Added Tax (Impuesto de Valor Agregado, or VAT) Law

The VAT Law states that legal entities that carry out the following activities in Mexican territory are obligated to pay VAT:

- ◆ Transferring of property, rights or other asset (whether by sale, donation, etc.)
- ◆ Rendering of independent services
- ◆ Leasing or renting of assets/property
- ◆ Importing assets or services.

Relevant data/information on the VAT:

- ◆ The general rate of this tax is 15 percent.
- ◆ On the border region, the applied tax rate is 10 percent.
- ◆ A zero tax rate is applied for certain activities such as exportation. Exportation of electric energy has a zero tax rate.
- ◆ The VAT is paid by those persons who acquire goods, services and property, use them permanently or temporarily, or receive services, expressly and separately.

Capital Assets Tax Law

The following entities are obligated to pay this tax:

- ◆ Persons that are involved in commercial activities and legal entities that are residents of Mexico, for the possession of any asset, wherever they may be located
- ◆ Mexicans residing outside of Mexico and that have a permanent residence in Mexico with respect to the assets attributable to the said residence
- ◆ Any person not included under the above categories, that grants the temporary use or enjoyment of goods and services that are used in the activities of another tax contributor, falling under one of the above categories, is obligated to pay this tax
- ◆ Residents outside of Mexico, that maintain inventory in national territory to be transformed, or that have already been transformed, by a taxpayer.

This tax rate is 1.8 percent of the active value of the capital asset. The Capital Assets Tax Law establishes the procedure to determine the value of the active assets. When taxpayers have the right to tax deductions, they will be able to reduce the tax on the asset in the same proportion as their income tax.

Customs Law: Import Tariffs

The Customs Law regulates the import and export of goods and services, including transportation. Moreover, it regulates all activities related to customs in general, including all functions of the customs authorities: control, dispatch, deposit and other activities related to customs, and import requirements.

This law is compulsory for all persons or entities that introduce goods and services to Mexico, or export goods and services from Mexico to another country, whether owners, holders, addressee, sender, representatives, custom agents or any person that participates in the introduction, extraction, custody, storage or handling of merchandise.

Merchandise is considered to be products, articles, effects and any goods or services introduced to national territory or brought out of national territory. Therefore, the law also regulates the functions of the customs authorities: control, dispatch, storage and other activities related to customs.

The Customs Law establishes taxes related to foreign trade, such as general import taxes and general export taxes. The special laws that regulate these taxes establish import duties applicable to each type of merchandise.

B.2.1.2. Secretariat of Energy (*Secretaría de Energía, or SENER*)

SENER, among others duties, has the following responsibilities:

- ◆ Conducts energy policies of the country.
- ◆ Exercises the country's rights with regard to oil and other solid hydrocarbons; liquids and gases; and nuclear energy as well as the benefits of natural resources that are required to generate, transport, transform, distribute and supply electric power used for public service.
- ◆ Guides the activities of parastatal entities that deal with the exploitation and transformation of hydrocarbons and the generation of electric and nuclear power relative to ecological legislation.
- ◆ Promotes the participation of entities that deal with the generation and utilization of energy relative to ecological legislation.
- ◆ Conducts energy planning for the medium and long term and establishes social and economic guidelines on energy for the public sector.
- ◆ Grants concessions, authorizations and permits on energy matters.
- ◆ Conducts and promotes studies and research on energy savings, structures, cost, projects, markets, prices and tariffs, assets, procedures, rules, norms and other aspects related to the energy sector.
- ◆ Regulates, and when appropriate, issues official Mexican norms on production, commercialization, buying and selling, quality conditions, supply of energy and any other aspect that promotes the modernization, efficiency and development of the sector, as well as ensuring compliance with these norms.
- ◆ Regulates and issues official Mexican norms on nuclear safety, including the use, production, exploitation, utilization, transportation, transfer, importation or exportation of radioactive materials, as well as ensuring compliance with these norms.

B.2.1.3. Secretariat of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales, or SEMARNAT*)

SEMARNAT is in charge of the following:

- ◆ Upholding the protection, restoration, and conservation of ecosystems and natural resources, as well as environmental goods and services, in order to promote their sustainable use.
- ◆ Promoting and guiding national policies with regard to natural resources, as well as policies regarding ecology, clean environment and water, and environmental regulation of urban development.

- ◆ Managing and regulating the exploitation of natural resources that belong to the Federation, with exception of petroleum and radioactive minerals.
- ◆ Protecting and ensuring compliance of the laws, official Mexican norms, programs related to natural resources, environment, water, forests, flora, and wild fauna, as well as to impose sanctions on those who do not comply with these laws.
- ◆ Exercising the federal ownership of beaches, federal maritime zones and marine fishery territory.
- ◆ Promoting national environmental planning.
- ◆ Evaluating and announcing its opinion on environmental impact statements of development projects presented by the public, social, and private sectors, as well as analyzing and issuing opinions on environmental risk studies.

B.2.1.3.1. National Ecology Institute (*Instituto Nacional de Ecología*, or *INE*)

INE, a decentralized entity under the umbrella of *SEMARNAT*, is in charge of planning general ecological policies and applying various regulations and environmental management practices. The Institute's responsibilities cover thematic as well as sectoral subject matters that are laid out in different action plans.

B.2.1.3.2. National Water Commission (*Comisión Nacional del Agua*, or *CNA*)

A decentralized entity of *SEMARNAT*, *CNA* has authority established in the National Water Laws, its regulations, the internal *SEMARNAT*'s regulations, and other applicable regulations.

CNA's responsibilities are:

- ◆ Managing and guarding national waters, as well as the assets related to them in conformity with its legal jurisdiction.
- ◆ Ensuring compliance with the National Water Laws.
- ◆ Providing whatever may be necessary to preserve the quality and sufficient quantity needed to achieve the sustainable use of water.

CNA is also in charge of studying, regulating, projecting, promoting, building, watching, managing, operating, preserving and rehabilitating the nation's hydraulic infrastructure as well as the complementary works that correspond to the federal government.

B.2.1.3.3. Office of Federalization and Decentralization of Forest and Land Services

This office is a decentralized entity of *SEMARNAT*. It is mainly in charge of granting licenses related to the use of soil and its restoration, as well as implementing programs for soil management, productive reconversion and forested areas.

B.2.1.4. Secretariat of the Economy (*Secretaría de Economía, or SE*)

The *SE* conducts, among others, the following activities:

- ◆ Leads general industry policies, foreign trade, domestic trade, supply, and prices, with exception of prices on goods and services related to the Federal Republic Administration.
- ◆ Regulates, promotes and monitors the commercialization, distribution and consumption of goods and services.
- ◆ Promotes foreign trade.
- ◆ Fixes tariffs and determines official prices.
- ◆ Determines fiscal policies needed for industrial development and internal and foreign trade.
- ◆ Regulates and registers industrial and mercantile property.
- ◆ Regulates and directs foreign investment and technology transfer.
- ◆ Promotes and regulates the development of transforming industries and intervenes in the supply of electric energy and gas to users.
- ◆ Registers merchandise prices, rental of goods, and contracting of services that govern the public sector.
- ◆ In conjunction with *SHCP*, authorizes the public sector's purchases of foreign goods, as well as authorizes the rules for international bidding.

B.2.1.4.1. Federal Competition Commission (*Comisión Federal de Competencia, or CFC*)

CFC is a decentralized body of *SE*, and has the following responsibilities:

- ◆ Investigates the existence of monopolies, impediments to trade, practices or collusions prohibited by the Economic Competition Federal Law.
- ◆ Expresses an opinion on modifications to the programs and policies of the Federal Republic Administration when these become contrary to free competition.
- ◆ Participates in executing agreements, deals, or international treaties on regulations or free competition policies.

B.2.1.4.2. Office of Foreign Investment

The Office of Foreign Investment has the following functions:

- ◆ Plans negotiation strategies for participation in international negotiations regarding foreign investment.

- ◆ Conducts international negotiations regarding the foreign investment issues of the commercial treaties.
- ◆ Communicates with other organizations and government agencies involved in international commerce negotiations regarding foreign investment.
- ◆ Functions as a focal point with regard to foreign investment issues for other permanent representative bodies of Mexico when they are dealing with international organizations.
- ◆ Manages the National Registry of Foreign Investments and has the authority to make inscriptions, modifications, updates, cancellations and annotations to the legal framework of the Registry, as well as disseminating the documentation of such actions.
- ◆ Evaluates foreign investment projects that are presented to the National Commission on Foreign Investment and provides assistance to ensure proper project implementation.
- ◆ Makes administrative resolutions concerning foreign investment and conforming with the existing judicial provisions, as well as the corresponding authorizations or negative responses based on the resolutions decided by the National Commission on Foreign Investment; monitors compliance with programs and obligations established in those resolutions; and authorizes the inscription of foreign companies in the Public Commercial Registry in conformity with the provisions of the General Law on Mercantile Corporations.
- ◆ Monitors and verifies compliance with the general legal provisions and regulations of the National Commission on Foreign Investment and of any other complementary provision; imposes sanctions for noncompliance of those provisions and regulations.
- ◆ Publishes, on a frequent basis, information regarding foreign investment.

The Office of Foreign Investment is under the charge of the Director General, who is assisted by the Adjunct Director General of the National Registry of Foreign Investment, the Director of Legal Affairs, the National Commission on Foreign Investment and the Commission on International Affairs.

B.2.1.5. Secretariat of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, or SCT*)

SCT conducts the following activities:

- ◆ Formulates and guides policies and programs for the development of transportation and communication.
- ◆ Manages the federal services of electric and electronic communications and similar public services that are linked to these communications and granted to services for private telephones, telegraphs and wireless devices.

B.2.1.6. Secretariat of National Defense (*Secretaría de la Defensa Nacional, or SEDENA*)

SEDENA conducts the following activities:

- ◆ Watches over the enforcement of and issues trade permits for transportation and storage of firearms, ammunition, explosives, toxic chemicals, devices and strategic materials.
- ◆ Intervenes on the importation and exportation of all types of firearms, ammunition, explosives, toxic chemicals and strategic materials.

B.2.1.7. Secretariat of Control and Administrative Development (*Secretaría de Controloría y Desarrollo Administrativo, or SECODAM*)

SECODAM, among other duties, is responsible for:

- ◆ Inspection of federal public expenditures and adherence to expenditure budget.
- ◆ Issuing norms that regulate the instruments and procedures of the control of the Federal Republic Administration.
- ◆ Monitoring compliance—through entities of the Federal Republic Administration—on matters regarding planning, budget, revenues, financing, investment, debt and capital resources.
- ◆ Inspecting and ensuring that entities of the Federal Republic Administration comply with the norms and provisions regarding contracting and procurement, leasing, services and execution of public works.
- ◆ Answering complaints from individuals that have contracts signed with entities of the Federal Republic Administration.
- ◆ Regulates procurement, leasing, transfer, destination, or modification of real estate belonging to the Federal Republic Administration.

B.2.1.8. Secretariat of Health (*Secretaría de Salud, or SS*)

SS, among other duties, has the following responsibilities:

- ◆ Establishing and leading the national policies on social assistance, medical services, and public health in general.
- ◆ Planning, processing and controlling health regulations that correspond to the national health system.
- ◆ Acting as the authority in health issues.

B.2.2. State and Municipal Authorities with Jurisdiction in Permitting and Administrative Processes

B.2.2.1. Secretariat of Urban Development

In each of the Mexican states, there is an executive branch that is in charge of human resettlement, regulating urban development and planning public works and state infrastructure in general. It also coordinates organizations that oversee state bodies related to potable water, housing and environmental protection.

This Secretariat has the following responsibilities:

- ◆ Promoting and ensuring balanced urban development of communities and populations of the state.
- ◆ Participating in the elaboration of the State Development Plan (*Plan Estatal de Desarrollo*) with respect to defining the policies for human resettlement, and to plan and execute public infrastructure and works.
- ◆ Formulating, revising and executing the State Urban Development Plan.
- ◆ Ensuring the compliance and application of legal provisions and regulations on matters such as divisions, construction and urban development.
- ◆ Formulating and operating, jointly with the Federation, planning and programming specifically for water supply, water treatment and sewage.
- ◆ Issuing statements on natural areas that are protected by the state, and promoting the registration and application of environmental protection laws.

Note: This Secretariat may have a different name in each state, but its functions are similar.

B.2.2.2. Municipal Offices of Urban Development

Municipalities have dependent branches that deal with regulating urban growth and environmental protection. Among their environmental duties are:

- ◆ Contributing to the preservation of natural resources and quality of the environment in the municipality.
- ◆ Announcing the diagnosis of the municipal environment.
- ◆ Ensuring, preventing, controlling and applying the necessary security measures and sanctions that may be necessary to protect the environment of the municipality.
- ◆ Elaborating on programs and regulations to protect to the environment, such as reforestation, proper handling of solid waste and management and surveillance of natural protected areas.

- ◆ Monitoring the compliance of environmental rules for both public and private works.
- ◆ Promoting and conducting studies related to the characteristics of the municipal environment.
- ◆ Revising and reporting environmental impact studies for new developments and buildings.

Note: These offices may have different names in the various municipalities of the country, but their functions are similar to above.

B.2.2.3. Laws Governing the State Finance Secretariats

There are laws in each of the states of the Republic that establish local taxes.

Payroll Taxes

Any legal entity or any economic entity that makes payments in cash or in kind to remunerate any personal work performed, under supervision of an employer, and within Mexican national territory, is obliged to pay this tax. Taxable payments include salaries for personnel work, all obligations whether ordinary or extraordinary, including per diems, representation expenses, awards, bonuses, commissions, savings, donations, 13th-month bonus, overtime, food and other similar items, as well as payments to directors, managers, administrators, commissioners, and members of board of directors or associations.

The tax rate is 2 percent of the total amount of payments referred to above.

Municipal Taxes

Ad Valorem Tax

The Ad Valorem Tax is determined by applying an annual rate of two-one thousandth (0.002 percent) of the value of the property. Property owners, co-owners and owners of all types of condominiums are obligated to pay this tax.

Taxes on the Acquisition of Real Estate

All legal entities that acquire real estate, including the attached structures, located in Mexican national territory are obligated to pay this tax. This tax is 2 percent of the property's value.

Note: The taxes previously mentioned are usually written in the Housing Laws of all the States of Mexico. Tariffs and taxes vary from state to state. There may be other kinds of taxes, titles, and uses in the local legislations.

B.3. Obligations and Requirements when Implementing Model Private Project Types in Mexico

This section details the different kinds of contracts for the generation of electricity:

- ◆ Build-Own-Operate (*Construir-Poseer-Operar*, or **BOO**)
- ◆ Build-Own-Operate-Transfer (*Construir-Poseer-Operar-Transferir*, or **BOOT**),
- ◆ Build-Lease-Transfer (*Construir-Arrendar-Transferir*, or **BLT**)
- ◆ Publicly Financed Turn-key Projects (*Obra Pública Financiada*, or **OPF**).

Secondary contracts, such as interconnection, wheeling, back-up power, transmission, purchase agreement for excess energy and fuel supply are also described.

B.3.1. Generation (BOO Contracts and Privately Developed Projects)

B.3.1.1. IPP Generation Projects (BOO Contracts)

General Characteristics

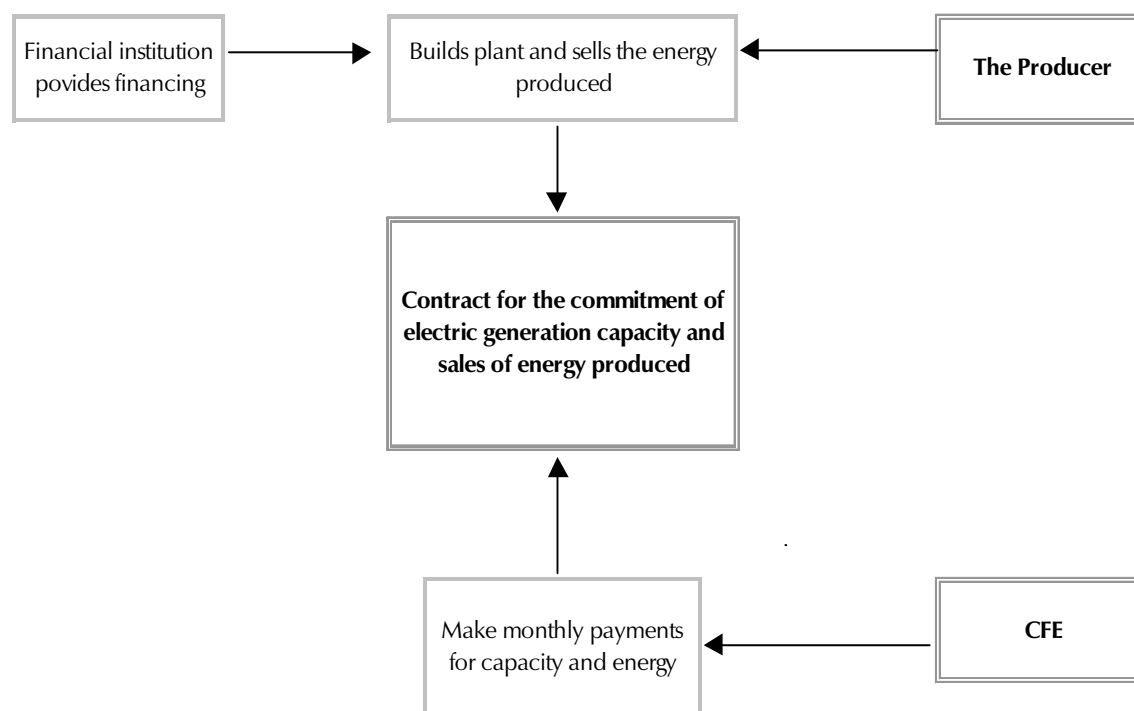
The purpose of the Contract for Obligation of Generation Capacity, Generation of Electric Energy and Sale of Associated Electric Energy (*Contrato de Compromiso de Capacidad de Generación de Energía Eléctrica y Compraventa de Energía Eléctrica Asociada*) is for the **IPP** to obligate itself to place at the disposition of **CFE** a specific generation capacity, and to sell to **CFE** the electric energy produced by that capacity, over the long term (25 years).

The producer is obligated to undertake all work required to design, construct, equip, test, commission, own, operate and maintain the plant. Once commercial operation commences, **CFE** will begin paying the fixed and variable charges established in the contract.

Independent producers have the freedom to choose the site that best suits them for construction. The **CFE** will provide an optional site for the construction of the facilities, which may be selected by the producer. The producer is solely responsible for obtaining all the financing necessary for the project, based on its own resources and without approaching the **CFE**.

Contracts for independent production of electric energy for sale to **CFE** will be executed only with legally constituted entities that have a permit for independent generation issued by **CRE** and that meet all requirements established in **LSPEE** and international agreements of which Mexico is a party.

Figure 13: Operational Diagram for IPP Generation Projects (BOO Contracts)



Permits and Licenses

The Contract for Obligation of Generation Capacity, Generation of Electric Energy and Sale of Associated Electric Energy, contained in the Annex to this document, establishes which permits must be obtained and maintained by the producer and which are the responsibility of the *CFE*. The most important are outlined below:

IPP Permit. The producer is responsible for obtaining a power production permit, under the heading of independent power production.

Environmental Impact Statement (*Manifestación de Impacto Ambiental*, or *MIA*). Obtaining a favorable ruling on the *MIA* filing is the responsibility of the *CFE* when the producer decides to build its plant on the site offered by *CFE*. The *MIA* is the responsibility of the producer when it decides to build the plant on a site other than that offered by the *CFE*. In both instances, the producer will be responsible for maintaining and complying with the permit.

Property Titles. These will be the responsibility of the *CFE* when the producer decides to build the plant on the site offered by the *CFE*. In this case, the *CFE*, prior to the execution of construction activity, will sell and put at the disposition of the contractor the property titles that are established for each project. All property titles will be in the name of the producer when it decides to build the plant on a site different from the one offered by the *CFE*.

Permits related to fuel for the plant. These will be the responsibility of the party responsible for supplying or transporting the fuel to the plant (whether *CFE* or the producer), consistent with the characteristics of the project.

All other permits are the responsibility of the producer. See Permit Matrix (Table 7).

Responsibility of the Producer

In *IPP* contracts, the producer has the following responsibilities:

- ◆ Development, design engineering, equipment, construction, start-up, testing, operation and maintenance of the installations that constitute the plant.
- ◆ Obtaining all financing (debt and equity) necessary to undertake the project.
- ◆ Obtaining and maintaining all permits in producer's name necessary for the construction, ownership and maintenance of the power plant.
- ◆ Obtain the guarantees and insurance policies required under the contract.
- ◆ Begin work on the plant on or before the date planned and agreed upon in the contract.
- ◆ Begin commercial operation on or before the date established for commercial operation in the contract.
- ◆ Meet any other critical target date established in the contract on or before the date indicated in the contract.
- ◆ Achieve a proven average availability that is at least equal to the minimum value established in the contract.
- ◆ Pay the taxes that accrue from the financing, design, engineering, construction, operation and maintenance of the plant.
- ◆ When the project requires it, the producer should arrange for fuel supply contracts in order to have fuel for testing, commissioning and operation of the plant.
- ◆ Put the demonstrated net capacity of the plant at the disposition of *CFE* from the date of commercial operation.
- ◆ Put the output of electric energy at the disposition of *CFE* according to the terms and conditions established in the contract.

Responsibility of *CFE*

Pay the producer the following payments, as established in the contract:

- ◆ Capacity charges:
 - Fixed charges for capacity
 - Fixed operation and maintenance charges for the plant.

- ◆ Energy charges:
 - Variable charges for operation and maintenance
 - Fuel cost charges
 - Charges for plant start-up.
- ◆ Provide the producer with documentation necessary for financial close of contract.
- ◆ Obtain the real estate titles that are its responsibility.
- ◆ Transfer to the producer, free and clear of all charges, the site where the plant will be constructed, when the producer has selected the Optional Site (site selected by *CFE*).
- ◆ Permit the producer to connect itself to the national electric grid at the contracted interconnection point.
- ◆ Program and dispatch the net capacity of the producer's plant up to the limit of its net guaranteed capacity.
- ◆ Acquire from the producer the demonstrated net capacity, beginning on the date of commercial operation and continuing for the remainder of the term of the contract.
- ◆ Undertake its best efforts to assist the producer in obtaining the permits required of *CFE*.
- ◆ Request and undertake all reasonable efforts necessary to achieve the inclusion of all required resources for payment of the respective contracts in the draft budgets of the Annual Budget Law (*Ley de Egresos*) for the following year.

Conditions for Bidding

CFE will publish a tender that will establish the general parameters for the project, the general conditions for the bid and whether the bid is national or international.

The bid documents for the projects should provide sufficient flexibility for the interested parties to select the technical aspects of the project, specifically with regard to technology, fuel, design, engineering, construction and location of the facilities.

The bid documents should contain, among other information:

- ◆ The required generation capacity
- ◆ Type of fuel
- ◆ Interconnection point
- ◆ Excess capacity
- ◆ Type and amount of the guarantees

- ◆ Basic framework for the contractual stipulations
- ◆ Location of the proposed plant
- ◆ Language or languages in which proposals may be presented
- ◆ Requirements regarding national content in materials, machinery and permanent equipment
- ◆ Pricing and payment conditions.

The bidders should present a performance guarantee alongside their proposal, in the form of a unconditional and irrevocable stand-by letter of credit. (See Section B.3.1.1.1.)

Proposals must be presented on the day and time noted in the bid documents. Bidders must comply with all the requirements established in the bid documents with respect to the content of the proposals.

CFE will undertake the review and evaluation of the proposals and will award the contract to the bidder that has presented the proposal with the lowest leveled cost of generation in addition to having met all the requirements established in the respective bid documents.

The *CFE* and the winning bidder will execute the Contract for Obligation of Generation Capacity, Generation of Electric Energy and Sale of Associated Electric Energy established in the bid documents.

B.3.1.1.1. Documents Required in Proposals for IPP Contracts

Bid Documents

The bid documents for *IPP* projects provide the details of the technical, financial and legal requirements with which the proposals submitted to *CFE* must comply. Similarly, the bid documents establish the language in which the proposal must be presented, the views of the site where the plant is to be constructed, incorporation of national content, the relationship with Union of Electric-Sector Workers of the Mexican Republic (*Sindicato Unico de Trabajadores Electricistas de la República Mexicana*, or *SUTERM*), guarantee for the proposal, validity, format, signatures, presentation and evaluation of the proposals, signature of the contract, causes for disqualification of proposals, conditions for declaring the bid null and void, acceptable tribunal and applicable law, among other aspects of the bid.

Who may present proposals:

- ◆ The person who obtains the bid documents.
- ◆ A consortium consisting of more than one company.
- ◆ A Special Purpose Corporation (*Sociedad de Propósito Específico*, or *SPC*).

Consortia

A consortium may be created by two or more companies that desire to participate in the bid together with a single proposal. In such cases, the consortium must adhere to the following stipulations:

- ◆ Have among its members one legal entity or affiliate of such an entity, that has acquired the bid documents.
- ◆ Designate a single representative or, if not possible, several representatives, but their legal powers must be legally demonstrated in a single instrument.
- ◆ Each one of the consortium's members must sign a letter of commitment in which they agree to be bound jointly before *CFE*.
- ◆ If it wins the bid, it will create an *SPC* to sign the contract with *CFE*.

Special Purpose Corporations

The bid documents establish the possibility of creating an *SPC* with the purpose of presenting a proposal and executing a contract with *CFE*.

Bidders Meetings

Between the publication of the tender and the deadline for submission of proposals, bidders meetings (*juntas de aclaraciones*, or "clarification" meetings) will be held. The *CFE* establishes the dates for the bidders to file questions and/or comments on the bid documents and includes the date in the bid documents. The *CFE* has the obligation to respond in writing to each one of the questions of the bidders by the dates identified in the bid documents. Accordingly, the *CFE* will deliver to all bidders documents containing all the questions and the answers it prepares. Based on these question-and-answer sessions between the bidders and *CFE*, the bid documents will be modified as the *CFE* considers appropriate.

This phase of the bid is very important, since it is the only time when the bidders may suggest changes, modifications or additions to the bid documents, including the contract. That is, it is the most opportune time to negotiate with the *CFE* all the elements that comprise the bid documents. The *CFE* may modify the bid documents throughout the period when questions may be presented and up to 7 days in advance of the deadline for delivering proposals.

Once the contract has been awarded, the winning bidder cannot request changes or modifications in the contract that will be signed with *CFE*, since *CFE* is legally prevented from making changes to the contract after it has been awarded.

Phases of Presentation and Opening of Proposals

The presentation and opening of proposals will be undertaken in the following two phases:

—Meeting for Presentation and Opening of Technical Proposals

—Meeting for Opening of Economic Proposals.

At the date and time specified in the bid documents, a Meeting for Presentation and Opening of Technical Proposals will be held. In this meeting, proposals are presented in two sealed envelopes. One envelope should contain the technical proposal, and the other should contain the economic proposal. In this meeting, *CFE* opens the envelope that contains the technical proposal to review of its contents. The envelope containing the economic proposal remains sealed in the custody of *CFE*, and is opened in the Meeting for Opening of Economic Proposals.

Documentation to be Included in the Technical Proposal

- ◆ Identification of the person presenting the proposal—this requirement is met by a document that gives the name and signature of the person presenting the proposal and this person’s identification.
- ◆ A written statement with a sworn declaration that the conditions detailed in the bid documents do not apply to the bidder or any of its shareholders, and that the bidder is not legally prevented from presenting the proposal or executing the contract for any reason (conditions set forth in *LOPSR*, §51). In the case of a consortium, this document must be signed by each member. In the case of an *SPC*, this document must be signed by its legal representative.
- ◆ A written statement with a sworn declaration that the prices of goods and services of foreign origin offered by the bidder in its proposal are established in accordance with fair trade conditions without the benefit of subsidies or dumping practices. In the case of a consortium, this document must be signed by each one of its members. In the case of an *SPC*, this document must be signed by its legal representative.
- ◆ A written statement by bidder stating the bidder selected the optional site offered by *CFE*, or selected a site other than the optional site offered by *CFE*; the bidder selected the preferred point of interconnection offered by *CFE*; or the bidder selected one of the alternative interconnection sites (in the event that the bid documents so require, due to the characteristics of the project), or otherwise identifies the point of interconnection.
- ◆ According to the particular needs of each *IPP* project, *CFE* will determine the existence of a preferred point of interconnection, alternative points of interconnection or the sole point of interconnection. In the case of a consortium, this document must be signed by each one of its members. In the case of an *SPC*, this document must be signed by its legal representative.
- ◆ A written statement that the bidder has attended, or not, the visits to the interconnection point, the Optional Site, as well as the bidders meetings held during the bid process. In the case of a consortium, this document must be signed by each one of its members. In the case of an *SPC*, this document must be signed by its legal representative.

- ◆ A written statement by the bidder that states whether or not it desires to construct excess capacity, and what amount. The bidder may construct capacity in excess of that required by *CFE*. *CFE* assumes no obligation to purchase the electricity produced by that excess capacity. In the case of a consortium, this document must be signed by each one of its members. In the case of an *SPC*, this document must be signed by its legal representative.
- ◆ Confirmation of presentation of an application to *CFC*, in compliance with §51 of the Rulemaking of the *CFC* (*Reglamento de la Comisión Federal de Competencia*).
- ◆ In the case of foreign companies, the application for authorization by the *SE* (formerly Secretariat of Commerce and Industrial Promotion) to engage in commerce in Mexico, in conformity with §251 of the General Commercial Code (*Ley General de Sociedades Mercantiles*), §17 and §17a of the Foreign Investment Law (*Ley de Inversión Extranjera*) and §37 of its rulemaking.
- ◆ Name, address, phone and fax numbers of the bidder. In the case of a consortium, this information should be presented for each one of its members.
- ◆ Notarized instruments that confirm the legal powers of the bidder's representatives to sign the letter of commitment and initial the proposal.
 1. Testimony or certified copies of the notarized instruments should be presented.
 2. In the case of foreign documents, these must be notarized with an apostille conforming to the Hague Convention. In the case of companies from countries that are not part of the Hague Convention, the document should be notarized by a Mexican consular official in the country that issued the document..
 3. In the event that the document is drafted in a language other than Spanish, a faithful translation into Spanish must also be included.
- ◆ For legally incorporated entities, a authenticated copy of its articles of incorporation and modifications, or an authenticated copy of the updated synthesis (*compulsa*) of its corporate statutes (this latter obviates the need to present various documents containing modifications to the articles of incorporation).
 1. In the case of foreign companies, documents must be notarized with an apostille conforming to the Hague Convention. In the case of companies or consortium members domiciled in countries that are not part of the Hague Convention, the document should be notarized by a Mexican consular official in the country that issued the document.
 2. In the event that the document is drafted in a language other than Spanish, a faithful translation into Spanish must also be included.
 3. In the case of consortium, this document must be signed by each one of its members.

- ◆ A letter of commitment adopting exactly the model contained in the bid documents.
 1. In this document, the bidders commit themselves to executing the contract in case they are awarded the contract.
 2. In the case of a consortium, this document must be signed by each one of its members. In this document, the consortium members assume joint responsibility before *CFE*.
 3. In the case of an *SPC*, this document must be signed by its legal representative.

- ◆ A proposal guarantee using the model document contained in the bid documents.
 1. The proposal guarantee is an unconditional and irrevocable stand-by letter of credit. Bidders should only use the model presented in the bid documents. This guarantee should be issued by domestic financial institutions or by foreign financial institutions acceptable to *CFE*. In this last case, the guarantee should be issued with notification or advice to a bank that operates legally in Mexico. The guarantee should conform to International Stand-By Practices of the International Chamber of Commerce (ICC), as described in ICC Publication 590 (ISP98). In all instances not foreseen by the foregoing rules for letters of credit issued in Mexico, federal legislation in Mexico will be applicable; in the case of letters of credit issued by foreign banks, legislation of New York City, in the State of New York, will apply.
 2. In the case of a consortium, the model letter of credit indicates that all of the members of the consortium be listed in the text of the same.

- ◆ The draft contract, with its annexes, must be initialed on each page and annex to indicate that the bidder understands and accepts the contract.
 1. In the case of a consortium, the contract must be initialed by the common representative or at least one of its representatives.
 2. In the case of an *SPC*, this document should be initialed by one of the legal representatives.

- ◆ Relevant information that describes the financial condition of the bidder, including audited financial statements for the last 2 fiscal years, which include confirmation that the bidder has the minimum capitalization required in the bid documents.
 1. The capitalization should be expressed in pesos or foreign currency, in which case the corresponding amount in pesos will be calculated using the exchange rate prevailing on the date of the audited financial statements for the most recent fiscal period.

2. The minimum capitalization may be satisfied by a single participant or member of a consortium having at least 20 percent of the equity in the *SPC* that will execute the contract with *CFE*.
 3. Financial statements may be presented in English.
- ◆ A document describing the capital structure of the bidder.
 1. In the case of a consortium, this document must describe each one its members, and the capital structure of each of the members as well as the equity participation that each one will have in the company that will be constituted to execute the contract with *CFE*.
 2. In the case of an *SPC*, the document must also describe each one its shareholders and the capital structure of each of its shareholders.
 - ◆ Documentation demonstrating that the bidder meets the requirements with respect to capacity and technical and operational experience contained in the bid documents.
 1. Printed technical information (such as catalogues) may be presented in English.
 2. The technical requirements may be satisfied by any participant or member of the consortium provided that this member has an equity participation of at least 10 percent in the *SPC* that will execute the contract with *CFE*.

Documentation to be Included in the Economic Proposal

Financial and economic information, as established in the bid documents. The following formats are included in the bid documents, and should be filled out by the bidders:

- ◆ Financial information for evaluation
- ◆ Mexican taxes
- ◆ Financial structure
- ◆ Engineering, supply and construction.
- ◆ Request for an *IPP* Permit (to be presented to *CRE*) in a sealed envelope.

The following are requirements for proposal preparation:

- ◆ Proposals must be presented in Spanish. Original documents drafted in a language other than Spanish must be accompanied by a faithful translation into Spanish. Financial statements and published technical information may be presented in English.
- ◆ A percentage, specified in the bid documents, of the total cost of the engineering, equipment and construction must be of Mexican origin.

- ◆ Proposals must remain valid for 180 days, or for the period of time specified in the bid documents for the project in question.
- ◆ Neither the bid documents nor the proposals may be negotiated, and any proposal that contains or imposes conditions, whether express or implicit, will be disqualified.
- ◆ If the winning bidder is not an *SPC*, it should constitute one in order to execute the contract with *CFE*.
- ◆ The corporate entity that executes the contract with the *CFE* should be domiciled in Mexico, unless it is exempted from this condition by some trade agreement, in which case it must have a permanent office in Mexico. In the cases of U.S. and Canadian companies, by virtue of NAFTA, it is not necessary that they have be domiciled in Mexico, but they are required to have a permanent office in the country.
- ◆ The pages of the original proposal and all copies must be numbered.

Guarantees

The guarantees required for this type of contract are as follows:

Pre-operational Guarantee: This guarantee should be valid for the period of plant construction. It should cover two phases, the period before work began and the period after work began. The amount of the guarantee will be established in the respective contract.

Operational Guarantee: This guarantee will be valid for the period of plant operation, during which capacity and energy are supplied to *CFE*. The amount of the guarantee will be established in the respective contract.

The performance guarantee for this type of contract should be established through a unconditional and irrevocable stand-by letter of credit. It should be issued by a domestic financial institution or by an international financial institution acceptable to *CFE*. In the case of an international financial institution, the guarantee should be issued with notification or advice to a bank that operates legally in Mexico.

The guarantee should conform to International Stand-By Practices of the ICC, as described in ICC Publication 590 (ISP98).⁴ In all instances not foreseen by the foregoing rules for letters of credit issued in Mexico, federal legislation in Mexico will be applicable; in the case of letters of credit issued by foreign banks, legislation of New York City, in the State of New York, will apply.

⁴ Institute of International Banking Law and Practice, *International Stand-By Practices*, (New York: International Chambers of Commerce, 1999). Document available through ICC Publishing.

Early Termination of Contract

The contract may be concluded before its stipulated completion date, with or without the responsibility of the parties, for the following reasons:

- ◆ Prior to the date of commencement of construction, in the event that the producer or *CFE* have not been able to obtain or keep current any permit, in spite of having exerted their best efforts to do so, the parties may declare the contract concluded, without any responsibility of either of the parties.
- ◆ Termination without responsibility could also occur if *CFE* has failed to meet its obligation to transfer the property titles or if the contract for electricity supplies during construction is not in effect.

Accidental Circumstances or Force Majeure

Neither the producer nor *CFE* will be responsible for failure to comply with any of their obligations when this is due to accidental circumstances or *force majeure*.

The obligation of *CFE* to make payments for capacity and energy charges (if they apply) will not be suspended in the event of accidental circumstances, although an adjustment, as established in the contract, will be applied.

Any event due to accidental circumstances or force majeure that causes an interruption in construction work of 180 consecutive days or a period of 270 nonconsecutive days prior to the scheduled entry into commercial service of the plant, will constitute justification for termination of the contract by either of the parties.

In the event of accidental circumstances or force majeure that occur after the date of commercial service, and if this causes net output of energy to drop below 50 percent for a period of 180 consecutive days or 270 nonconsecutive days, this will also constitute cause for termination of the contract without responsibility by either of the parties.

In these cases, if *CFE* cancels the contract, or if the termination is due to governmental force majeure, accidental circumstances or force majeure for the *CFE*, the producer will have the right to oblige *CFE* to acquire the plant and other project assets with payment of the appropriate price.

For contractual purposes, governmental force majeure refers to various types of events such as: wars, civil disturbances, rebellions, insurrections, or sabotage occurring in Mexico; commercial embargos against Mexico; acts or omissions of the government of Mexico; impossibility of either party, in spite of their best effort, to obtain in a timely and appropriate manner, any permit required of them; and the producer's failure to receive back-up fuel due to accidental circumstances or force majeure on the part of the supplier.

Obligatory Termination

In case any of the events of noncompliance occurs on the part of the producer or *CFE*, the party that has not failed to comply will have the right to terminate the contract without necessity of a legal proceeding (*declaración judicial*) through a notification given to the other party with 30 days notice, and to pursue any appropriate remedy in accordance with the contract or applicable law.

Nevertheless, the contract states that before *CFE* exercises its right to declare the contract null and void, it should advise the creditors of the project of the occurrence of the noncompliance, since in such cases the creditors have the benefit of grace periods that may be used to correct the noncompliance on the part of the producer, or to assume the rights and obligations of the producer, as stipulated in the contract.

If the producer rescinds the contract due to noncompliance by *CFE*, the producer will have the right to require *CFE* to acquire the plant and associated assets through the payment of an appropriate acquisition price. This acquisition price will indemnify the producer for the damages and harm that the producer suffered due to *CFE*'s noncompliance.

If the *CFE* rescinds the contract due to noncompliance on the part of the producer, the *CFE* will have the right, but not the obligation, to acquire the plant and other project assets through payment of an appropriate acquisition price.

Conflict Resolution Mechanisms and Applicable Law

Applicable Law

The Contract for Obligation of Generation Capacity, Generation of Electric Energy and Sale of Associated Electric Energy is based on *LSPEE* and its rulemaking, as well as the federal legislation of Mexico.

Arbitration

In the contract, arbitration is designated as the mechanism for conflict resolution, which will be governed by the Arbitration Regulations of the ICC. Both parties will have the right to resort to arbitration for any legal disagreement, except with regard to the competence of the Independent Expert.

- ◆ Arbitration will be conducted in Spanish.
- ◆ The arbitration process will take place in Mexico City, Mexico.
- ◆ The applicable law will be Mexican federal law.
- ◆ The arbitration tribunal will be made up of three members, one selected by each one of the parties and the third, who will be the president, selected in accordance with the Arbitration Guidelines of the ICC.

Independent Expert

Disputes on technical, operational or payment-related issues will be referred to an Independent Expert for decision.

- ◆ The maximum term for the Independent Expert to render his or her decision will be 90 days.
- ◆ The parties, by mutual agreement, will prepare the list of experts, which will be annexed to the contract.
- ◆ The cost of contracting the Independent Expert will be borne in equal parts by the parties.
- ◆ The findings of the Independent Expert will be final and obligatory for the parties (except in the case of fraud, bad faith or manifest error).

Market Opening Clause

In the event that the Mexican electric sector is restructured, the contract establishes that the parties could agree on the following:

If at any time after the second anniversary of the date of commercial operation of the plant, there were to exist in Mexico for a period of at least 2 years a competitive market for electricity (in which the producer could sell the net capacity and net production associated with that capacity), either of the parties may propose to the other the total or partial termination of the contract with at least 6 months advance notice. If the other party notifies the party proposing termination of the contract that it is not interested in terminating the contract, either partially or completely, the process of premature termination will be considered closed.

If the other party is in agreement with the process of termination, the producer and *CFE* will select, by mutual agreement, an Independent Expert with the objective that this expert should determine the price of termination that the producer should pay to *CFE*. This termination price will be established by taking into consideration:

- ◆ The net present value of the projected market price of electricity in the market for the remainder of the contract's life.
- ◆ The present net value of the payments that *CFE* will make for the rest of the life of the contract in the event that it is not terminated.
- ◆ Any other factor that the Independent Expert and/or the *CRE* deem to be important.

CFE or the producer may accept or reject the termination price determined by the Independent Expert. If it is rejected, the contract will not be terminated. If the parties accept the termination price, the producer or *CFE*, as the case may be, must make the corresponding payment. If any of the parties refuse to accept the termination price, that party will not have the right to propose termination of the same contract due to restructuring for a period of 6 months.

If at any time after the second anniversary of the entry into commercial operation of the plant there were to exist in Mexico for a period of at least 2 years a competitive market for electricity (in which the producer could sell the net capacity and net production associated with that capacity), the producer may, at its option, send an irrevocable notice to *CFE* that it wishes to acquire the rights and obligations of *CFE* under this contract. If the producer sends this notification, *CFE* must, within a period of 6 months from receipt of such notification, publicly convene a bid for the purpose of ceding to the highest bidder its rights and obligations under this contract. The producer, as well as any interested third party, may participate in this bid. Once concluded, *CFE* will cede its rights and obligations to the winning bidder.

Contracts

The contractual agreements established between the producer and the *CFE* will include the following:

Contract for Obligation of Generation Capacity, Generation of Electric Energy and Sale of Associated Electric Energy—This is the principal contract that establishes all the terms and conditions related to the availability of capacity of the plant to be built by the producer, as well as sale of the electric energy associated with that capacity.

Contract of Site Purchase—This contract will be signed by *CFE* and the producer in the event that the producer chooses to build the plant on the Optional Site offered by *CFE*. Through this agreement, *CFE* transfers ownership of the site to the producer, free and clear of any claim, and prior to plant construction.

Contract of Cession of Property Rights—This contract will be signed by *CFE* and the producer in the event that the producer decides to build the plant on the Optional Site offered by the *CFE*. Through this contract, *CFE* cedes to the producer the title to the property rights to the site previously acquired by *CFE*.

Fuel Supply Contract—In accordance with the specific characteristics of the project, *CFE* may assume the responsibility of supplying the producer with the fuel required for the production of electric power. In these cases, *CFE* and the producer will sign a Fuel Supply Contract that establishes a price for *CFE* to recover its costs in supplying the fuel.

Fuel Transportation Contract—In accordance with the specific characteristics of the project, *CFE* may assume the responsibility of providing the producer with transportation services required to deliver fuel to the plant. In these cases, *CFE* and the producer will sign a Fuel Transportation Contract that establishes a price for *CFE* to recover its costs in transporting the fuel.

B.3.1.2. Build-Own-Operate-Transfer Contracts (BOOT)

General Characteristics

The purpose of this contract is to put up for competitive bid a contract, for *CFE*, under which the winner of the bid will construct and put into operation a facility or system necessary for the provision of an energy project, in addition to operating and maintaining the facility or system during the operating period, and retaining ownership of the system for at least the lifetime of the contract.

The developer of the project assumes all risk during the construction period of the project. After the date of operation for the project, *CFE* has the unconditional obligation to pay the fixed capacity charges and fixed operation and maintenance charges.

In the event of noncompliance on the part of *CFE*, or in the event of government force majeure, *CFE* assumes the obligation of purchasing the facility.

In the event of noncompliance on the part of the service provider during the operational period of the project, *CFE* has the option of purchasing the facility following the application of the standard penalties for noncompliance.

The compensation for the service includes all the costs and charges related to the construction and financing of the project, including capital financing and the operation and maintenance of the system.

At the end of the life of the contract, ownership of the facility is transferred to *CFE*.

This contract mechanism has been utilized for contracting the receipt and handling of coal shipments at generation stations.

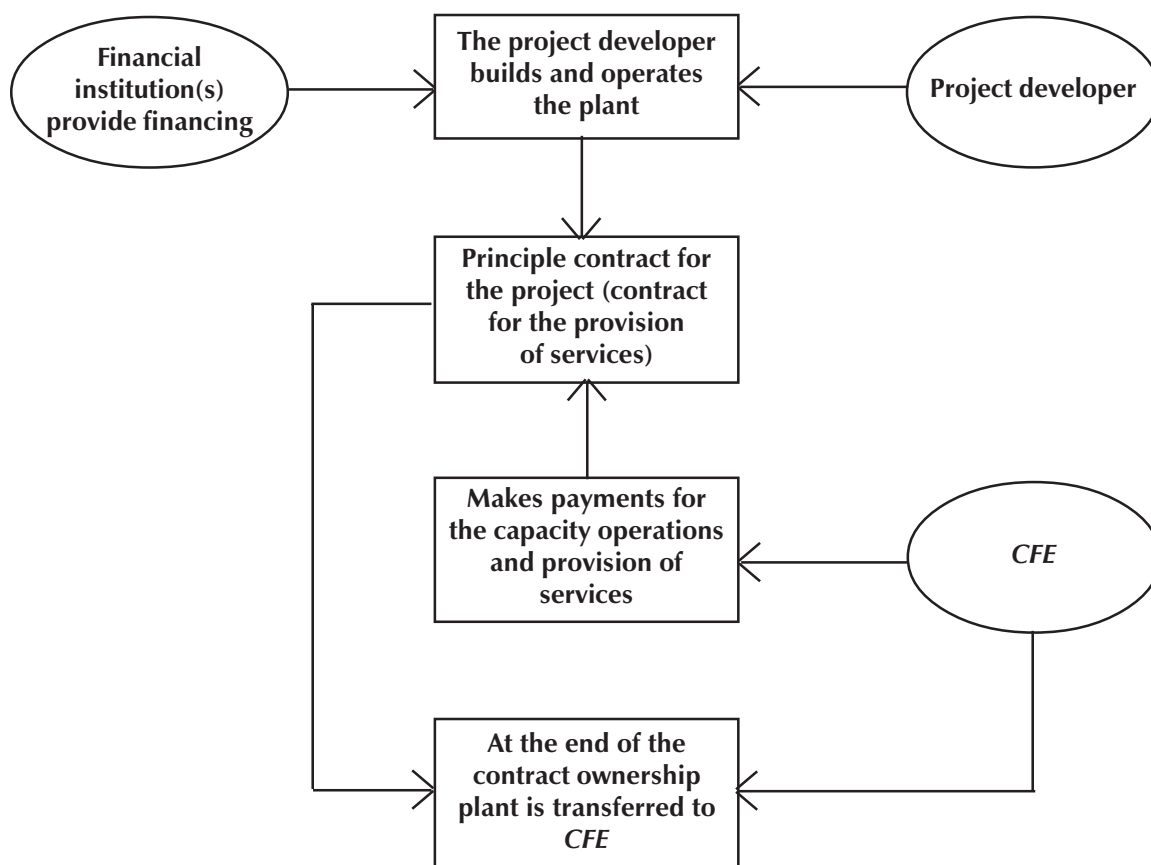
B.3.1.3. Self-generation (Privately Developed and Operated)

General Characteristics

In accordance with §36 Section I of *LSPEE*, self-supply is defined as the production of electric energy that is used for consumption on the premises, and when the energy produced comes from plants intended to satisfy the needs of a group of co-owners or partners in the generation infrastructure.

The activities of the self-supplier may include transformation, transmission and delivery of the electric energy to the respective beneficiaries of the plant. Similarly, self-suppliers may execute contracts with *CFE* for the transmission of the electric energy by *CFE*.

Figure 14: Operational Diagram for *BOOT* Contracts



Self-supply is an activity subject to prior permission by *SENER* and issued through *CRE*. The permits that *CRE* issues for self-supply will be for an unlimited period of time. The permit holder should take the measures necessary to comply with the Official Mexican Standards (*Norma Oficial Mexicana*, or *NOMs*) and other obligatory specifications and assume the risks deriving from any circumstance that might prevent or modify the operating conditions of the plant and its availability.

Permits

Applications for self-supply permits should be presented to *CRE* following the formats that *CFE* provides, which include the following information:

- ◆ Name and address of the applicant.
- ◆ Purpose of the permit and, if appropriate, period requested by the applicant.
- ◆ Location of the plant, capacity of the facility, and locations where the energy will be used.
- ◆ Plans for fuel supply, including data on source, type, substitutes and costs and use of national waterways, if applicable.

- ◆ If applicable, availability and firmness of excess capacity and energy, requirements of complementary energy and capacity for firm backup or back-up subject to availability, as well as transmission services.
- ◆ Other information, as required by the purpose of the permit.

The following documentation should accompany the formats and the application:

- ◆ Information required to establish the legal existence of the applicant.
- ◆ Description of the project, in general terms.
- ◆ Whatever documentation is required to establish the title, ownership, and authorization to use the surface area needed for the facilities.

Once the permit application has been filed with *CRE*, the Commission will review it within 10 days. If it decides to initiate the permitting procedure, it will notify *CFE* of its intent to authorize the application and request its opinion, which, when received, should establish: (1) facts related to the availability and firmness of the excess capacity and energy from the project; (2) back-up capacity and energy requirements; and (3) transmission services.

CFE will issue its response within the following 30 working days, and *CFE*'s response will not bind the *CRE* in its own response to the applicant. When the opinions of *CRE* and *CFE* require modifications or restrictions to the project proposed in the permit application, the applicant will present its views within 10 working days from receipt of the response by *CRE*.

If the applicant presents observations to the administrative response, *CRE* will decide on the changes and adjustments that should be made to the application.

Once this procedure is completed, the *CRE* may request clarifications and additional information that it deems relevant, and may require that the applicant present a technical presentation including a complete description and justification for the project. Once this data and documentation have been received, *CRE* will issue its ruling on the application, and if it is approved, it will issue the permit within the following 30 working days.

Obtaining permits for the implementation of a self-supply project is the sole and exclusive responsibility of the self-supplier. No self-supply permit is required for projects of less than 500 kW nor is one required for the operation of plants intended solely for self-supply in emergencies resulting from interruptions in the public service of electricity (i.e., by *CFE*).

The recipients of self-supply permits have the following obligations:

- ◆ Not to sell, resell or otherwise transfer under any instrument, directly or indirectly, capacity or electric energy, except under the circumstances authorized in *LSPEE* and its rulemaking.
- ◆ Notify *SENER* of the date on which work is concluded, within 15 days.
- ◆ Comply with the regulatory and legal dispositions, as well as applicable *NOMs* and other requirements with respect to the installations covered by the permits.
- ◆ Operate and maintain installations and equipment in a state that does not constitute any threat to the permit holder or others.
- ◆ Once operation of the facility begins, inform the *SENER* of the type and amount of fuel consumed and the amount of electric energy produced, specifying the part dedicated to satisfying the permit holder's own requirements and the part delivered to *CFE* or destined for export, as well as any imports of electric energy that may occur. This information will be used for statistical purposes only.

Renewal, Transfer and Cancellation of Self-supply Permits

Permit holders for independent production facilities may request renovation of the permits from *SENER* in advance of their expiration date. The rights derived from the permits may be transferred to a third party that acquires the permitted facilities. The rights derived from the permit may only be transmitted completely or partially with the prior authorization of *CRE* provided that the following conditions are met:

- The permit holder and the organization that seeks to acquire the permit request the authorization jointly and in writing.
- The acquiring organization provides documentation to the effect that it meets all the requirements presented in *LSPEE* and its rulemaking for obtaining a permit or permits for the activities in question.

Similarly, the rights and obligations derived from a permit may be transferred, including the relevant facilities, through succession or judicial adjudication.

The validity of the permits will terminate for the following reasons, among others: (1) expiration of the period of validity; (2) dissolution, death or incapacity of the permit holder; (3) due to revocation ordered by *SENER*; (4) expiration (other than due to passage of the period of validity); and (5) due to resignation.

Issues Related to Ownership of Existing Generation Facilities or Ancillary Equipment

It is possible for a private power producer—whether under a self-supply permit, cogeneration permit, small-scale production permit or an independent producer

permit—to utilize equipment and/or property belonging to *CFE*, *LyFC* or *CNA* to implement a project.

In the use of infrastructure for generation stations, the Law of National Property (*Ley de Bienes Nacionales*) permits state agencies to allow the use of these assets by private firms, in accordance with specified guidelines, and after having obtained the relevant permits and the execution of the necessary contracts.

It is also possible to use the services of the national transmission grid with the execution of the necessary contracts with these two entities. Clearly, such contracts can only be awarded in instances where the necessary infrastructure already exists. If not, the permit holder must construct the infrastructure or provide the resources for doing so in accordance with the terms of the Regulations of the Law on Public Service of Electric Power Regarding Contributions (*Reglamento de la Ley del Servicio Público de Energía Eléctrica en Materia de Aportaciones*).

Whichever the case, the assets to be used will continue to be property of the agency that permits their use by private sector entities, which are obliged to pay an appropriate fee or rent for that use, depending on the assets in question.

Contracts

Interconnection Contract: This contract establishes the technical conditions for establishing a connection between the permit holder's energy source and the national grid of *CFE*. This contract also provides the necessary legal framework for other types of agreements and contracts, such as for wheeling and back-up energy.

Back-up Power Contract: This contract establishes the general conditions for *CFE* to provide back-up power to the permit holder if a generation plant unexpectedly goes offline or needs to be shut down for maintenance.

Transmission Contract: This contract establishes the general conditions for *CFE* to provide transmission services to the permit holder.

Purchase Agreement for Excess Energy: This contract establishes the general conditions for *CFE* to acquire excess energy produced by the permit holder. The prices at which the energy will be acquired are also outlined in this contract.

Fuel Supply Contract: This contract is signed with the supplier of the fuel(s) used to power the plant. The fuel supplier may be PEMEX Gas and Basic Petrochemicals (*Pemex Gas y Petroquímica Básica*, or *PGPB*), transportation companies or independent distributors. The general conditions of supply, price and contract duration are also determined in this contract.

B.3.1.4. Cogeneration (Privately Developed and Operated)

General Characteristics

In accordance with §36 Section I of *LSPEE*, cogeneration is defined as:

- ◆ The production of electric energy in conjunction with steam or another type of secondary thermal energy, or both.
- ◆ The direct or indirect production of electric energy with unused thermal energy not consumed in the processes in question.
- ◆ The direct or indirect production of electric energy using fuels produced in the processes in question.

Permits

CRE will issue cogeneration permits to generate electric energy produced jointly with steam, or another type of secondary thermal energy, or both, when the thermal energy that is not used in the processes is used directly or indirectly to produce electric energy, or when fuels produced in the processes are used for the direct or indirect generation of electric energy, provided that:

- ◆ The electricity generated is used to meet the needs of the facilities associated with the cogeneration, the economic and energy efficiency of the entire process is increased and the energy efficiency of the new facility is greater than that encountered in conventional generation facilities.
- ◆ The cogeneration facility utilizes or produces the steam, thermal energy or fuels that are generated by the processes underlying the cogeneration facility.
- ◆ The electricity produced serves the needs of companies or individuals who are owners or co-owners of the facilities or shareholders in the company in question.
- ◆ The applicant for the cogeneration permit commits to place excess capacity at the disposition of *CFE*.
- ◆ The duration of the cogeneration permit may be indefinite.

The following documentation must accompany the application for a cogeneration permit:

- ◆ Proof of the legal constitution and existence of the applicant.
- ◆ A general description of the project, including the characteristics of the plant and the accessory installations; estimated annual generation and fuel consumption; information regarding the anticipated water use; and information concerning compliance with environmental and land-use standards.
- ◆ The permit holder commits itself to place the excess power at the disposition of *CFE*.

- ◆ The title or document that certifies the title, possession or authorization to use the land that will be occupied by the installations, or documentation of the legal instruments that provide for the same.
- ◆ A study containing the following:
 - A general description of the process.
 - Diagrams of the process, heat balances and specific fuel requirements.
 - The expected availability of excess capacity and electric energy, by typical day, presented by month and year.

Cogeneration permits may be issued to persons other than those that actually implement the cogeneration. In this case, the application must also be signed by the operators, who will include a copy of the agreement concluded for this purpose, or the instrument that demonstrates the formation of the company created for this purpose.

The holders of cogeneration permits will have the following obligations:

- ◆ Notify *SENER* of the date on which construction is concluded, within 15 working days.
- ◆ Comply with regulatory and legal dispositions as well as the *NOMs* applicable to the installations covered by the permit.
- ◆ Operate and maintain the installations and equipment in such a manner so as not to endanger the permit holder or third parties.
- ◆ Once operation of the facility begins, inform *SENER* of the type and amount of fuel consumed and the amount of electric energy produced, specifying the part dedicated to satisfying the permit holder's own requirements and the part delivered to *CFE* or destined for export, as well as any imports of electric energy that may occur. This information will be used for statistical purposes only.

Renovation, Transfer and Termination of the Permits

The rights derived from the permits may be transferred to a third party that has acquired the installations covered by the permit.

The rights derived from the permit may only be transmitted completely or partially with prior authorization of *CRE* and provided that the following conditions are met:

- ◆ The permit holder and the organization that seeks to acquire the permit request the authorization jointly and in writing.
- ◆ The acquiring organization provides documentation to the effect that it meets all the requirements presented in *LSPEE* and its rulemaking for obtaining a permit or permits for the activities in question.

Similarly, the rights and obligations derived from a permit may be transferred, including the relevant facilities, through succession or judicial adjudication.

The validity of the permits will terminate for the following reasons, among others: (1) expiration of the period of validity; (2) dissolution, death or incapacity of the permit holder; (3) due to revocation ordered by *SENER*; (4) expiration (other than due to passage of the period of validity); and (5) due to renouncement by the permit holder.

Contracts

Interconnection Contract: This contract establishes the technical conditions for establishing a connection between the permit holder's energy source and the national grid of *CFE*. This contract also provides the necessary legal framework for other types of agreements and contracts like the ones for wheeling and back-up energy.

Back-up Power Contract: This contract establishes the general conditions for *CFE* to provide back-up power to the permit holder if a generation plant unexpectedly goes offline or needs to be shut down for maintenance.

Transmission Contract: This contract establishes the general conditions for *CFE* to provide transmission services to the permit holder.

Purchase Agreement for Excess Energy: This contract establishes the general conditions for *CFE* to acquire excess energy produced by the permit holder. The prices at which the energy will be acquired are also outlined in this contract.

Fuel Supply Contract: This contract is signed with the supplier of the fuel(s) used to power the plant. The fuel supplier may be *PGPB*, transportation companies or independent distributors. The general conditions of supply, price and contract duration are also determined in this contract.

B.3.1.5. Small-scale Supply of Electric Power (Privately Developed and Operated)

General Characteristics

Small-scale production is the generation of electric energy for:

- ◆ Sale to *CFE* by projects whose capacity is no more than 30 MW.
- ◆ Self-supply for small rural communities or remote areas that lack electric service, in which case projects cannot exceed 1 MW in size.
- ◆ Export, within a maximum limit of 30 MW.

Permits

CRE will issue permits for small-scale production when the applicants are Mexican nationals or entities incorporated in accordance with Mexican law and with domicile in national territory, they dedicate the total of their energy and capacity for sale to *CFE* and provided that the total capacity does not exceed 30 MW.

In the case of applications for sales to *CFE* and export, the permit holder cannot also hold permits in the same area for projects whose total capacity exceeds 30 MW.

When *CRE* processes these applications, *CRE* will delineate the area for small-scale production, taking into consideration the fuels used for generation of electricity and the characteristics of the region; as appropriate, (*CRE* will take into consideration) *CFE*'s infrastructure in the region, to evaluate the viability of interconnection to the National Electric System (*Sistema Interconectado Nacional*, or *SIN*) and the requests of the applicant for delivery of the energy, as well as other circumstances that may occur.

In the case of small rural communities, the applicants should:

- ◆ Develop consumption cooperatives, coproprietorships, associations or non-profit organizations, or execute cooperation agreements for self-supply.
- ◆ Mention the persons or organizations to whom the electric energy will be delivered and the conditions under which the electricity will be delivered to the end users, in accordance with the terms of the agreements established for this purpose.

With the application for a small-scale production permit, the following documents should also be included:

- ◆ Proof of the legal constitution and existence of the applicant.
- ◆ A general description of the project, including the characteristics of the plant and the accessory installations; estimated annual generation and fuel consumption; information regarding the anticipated water use, as well as information concerning compliance with environmental and land-use standards.
- ◆ The title or document that certifies the title, possession or authorization to use the land that will be occupied by the installations, or documentation of the legal instruments that provide for the same.

The holders of small-scale production permits will have the following obligations:

- ◆ Notify *SENER* of the date on which construction is concluded within 15 working days following completion.

- ◆ Comply with regulatory and legal dispositions as well as the *NOMs* applicable to the installations covered by the permit.
- ◆ Operate and maintain the installations and equipment in such a manner so as not to endanger the permit holder or third parties.
- ◆ Once operation of the facility begins, inform *SENER* of the type and amount of fuel consumed and the amount of electric energy produced, specifying the part dedicated to satisfying the permit holder's own requirements and the part delivered to the *CFE* or destined for export, as well as any imports of electric energy that may occur. This information will be used for statistical purposes only.

Renovation, Transfer and Termination of the Permits

The rights derived from the permits may be transferred to a third party that has acquired the installations covered by the permit.

The rights derived from the permit may only be transmitted completely or partially with the prior authorization of *CRE* provided that the following conditions are met:

- ◆ The permit holder and the organization that seeks to acquire the permit request the authorization jointly and in writing.
- ◆ The acquiring organization provides documentation to the effect that it meets all the requirements presented in *LSPEE* and its rulemaking for obtaining a permit or permits for the activities in question.

Similarly, the rights and obligations derived from a permit may be transferred, including the relevant facilities, through succession or judicial adjudication.

The validity of the permits will terminate for the following reasons, among others: (1) expiration of the period of validity; (2) dissolution, death or incapacity of the permit holder; (3) due to revocation ordered by *SENER*; (4) expiration (other than due to passage of the period of validity); and (5) due to termination by permit holder.

Issues Related to Ownership of Existing Generation Facilities or Ancillary Equipment

It is possible for a private power producer—whether under a self-supply permit, a cogeneration permit, small-scale production permit or an independent producer permit—to utilize equipment and/or property belonging to *CFE*, *LyFC* or *CNA* to implement a project.

In the use of infrastructure for generation stations, the Law of National Property permits state agencies to allow the use of these assets by private firms, in accordance with specified guidelines, and after having obtained the relevant permits and the execution of the necessary contracts.

It is also possible to use the services of the national transmission grid, with the execution of the necessary contracts with these two entities. Clearly, such contracts can only be awarded in instances where the necessary infrastructure already exists. If not, the permit holder must construct the infrastructure or provide the resources for doing so in accordance with the terms of the Regulations of the Law on Public Service of Electric Power Regarding Contributions.

Whichever the case, the assets to be used will continue to be the property of the agency that permits their use by private sector entities, which are obliged to pay an appropriate fee or rent for that use, depending on the assets in question.

Contracts

Interconnection Contract: This contract establishes the technical conditions for establishing a connection between the permit holder's energy source and the national grid of *CFE*. This contract also provides the necessary legal framework for other types of agreements and contracts, such as wheeling and back-up energy.

Back-up Power Contract: This contract establishes the general conditions for *CFE* to provide back-up power to the permit holder if a generation plant unexpectedly goes offline or needs to be shut down for maintenance.

Transmission Contract: This contract establishes the general conditions for *CFE* to provide transmission services to the permit holder.

Purchase Agreement for Excess Energy: This contract establishes the general conditions for *CFE* to acquire excess energy produced by the permit holder. The prices at which the energy will be acquired are also outlined in this contract.

Fuel Supply Contract: This contract is signed with the supplier of the fuel(s) used to power the plant. The fuel supplier may be *PGPB*, transportation companies or independent distributors. The general conditions of supply, price and contract duration are also determined in this contract.

B.3.2. Generation (BLT Contracts)

B.3.2.1. General Characteristics

The *BLT* scheme has been utilized for the construction of generation facilities, transmission lines and electric substations. The scheme is based on the creation of a vehicle, in this case a trust agreement, in which the following entities participate:

- ◆ As parties to the trust, the winner of the bid and *CFE* in the case of power stations (in the case of transmission lines and substations, only the bid winner is a party to the trust).

- ◆ As the trust beneficiary, *CFE*.
- ◆ As fiduciary administrator of the trust, the institution designated for this purpose.

The trust is irrevocable insofar as administration or transfer of ownership, and its endowment incorporates the site where the plant is to be constructed, the installations that the bid winner constructs, the intellectual property rights that may be relevant, the entirety of the permits required for the purpose of completing the project covered by the trust, as well as any income that the trust may receive as part of a guarantee, indemnification or other income.

The purposes of the trust are as follows:

- ◆ Receive the installations constructed by the winning bidder in the competition.
- ◆ Maintenance of the facilities.
- ◆ Issuance of the rights to use and benefit from the facility to *CFE* in its capacity as trust beneficiary.
- ◆ Transfer of the property of the plant to *CFE*.

In these contracts, the construction risk falls entirely on the winning bidder, which in addition commits itself to obtaining financing for its construction and operation until the termination of the Trust Contract. Once the facility has been received by *CFE*, the payments are not subject to any conditions, in accordance with the contract characteristics described below.

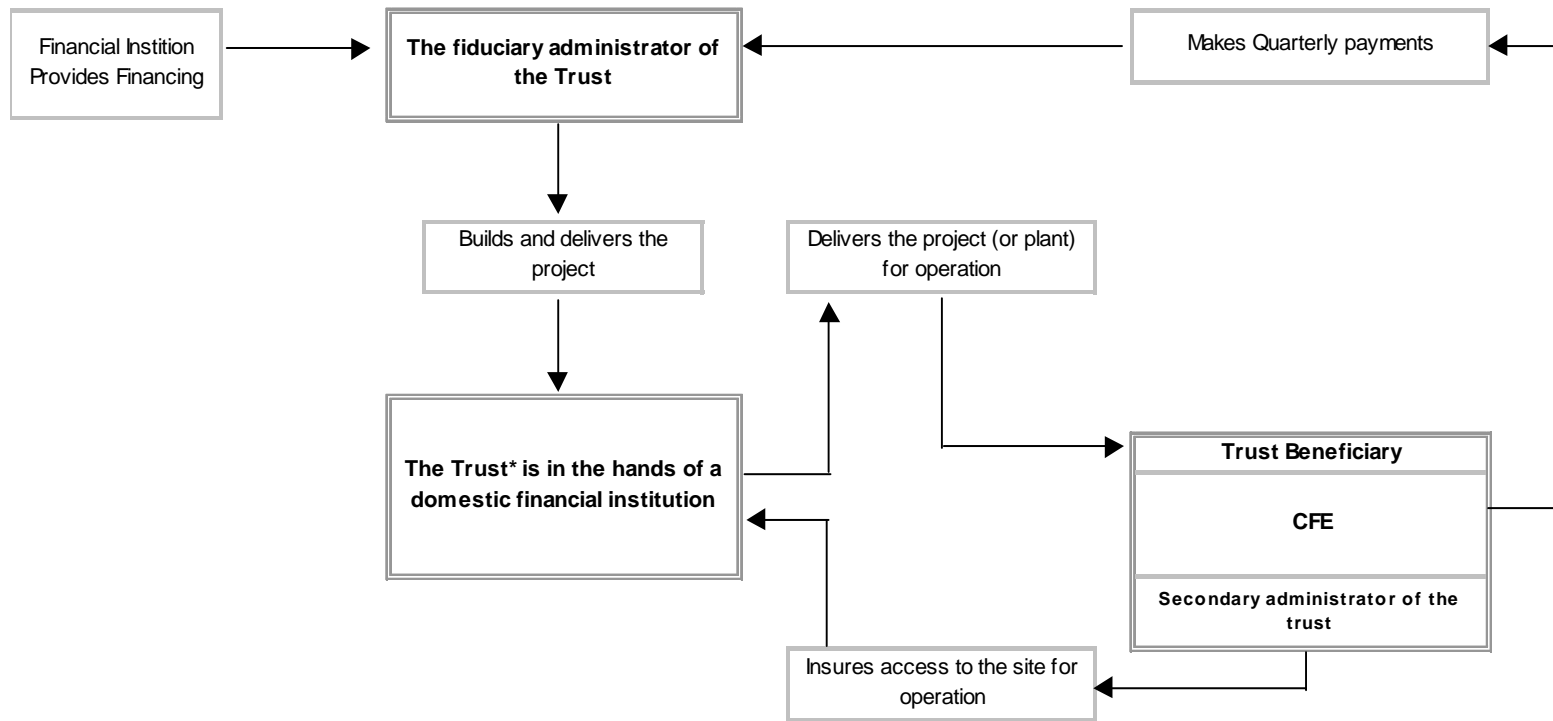
B.3.2.2. Permits

Given that the contract is largely one for the construction of a plant (operation of the plant being conducted by *CFE*), the bid winner will be responsible only for the permits necessary to build the project. All other permits will be obtained by *CFE*.

B.3.2.3. Responsibility of the Company

- ◆ Constructing the plant, including engineering, risk analysis, studies, purchase, supply and transportation of materials, execution of all testing and technical support to *CFE* personnel.
- ◆ Obtaining the necessary financing (short- and long-term) for the development of the project.
- ◆ Obtaining the permits necessary for the construction of the plant, with the exception of those that are required of *CFE*.
- ◆ Provide the necessary guarantees for the duration of construction as well as the stipulated guarantee period following the acceptance of the project by *CFE*.

Figure 15: Operational Diagram of the General Characteristics of *BLT* Contracts



- ◆ The company will be directly responsible for payment of all taxes and other charges that are required for the importation, supply and transportation of materials.
- ◆ The company must comply with the percentage of local content, as required in the bid documents.
- ◆ The company must obtain the insurance coverage for all risks during construction as well as an insurance policy for civil liability.

B.3.2.4. Responsibility of CFE Prior to Acceptance of the Project

Prior to provisional acceptance of the project, *CFE* must:

- ◆ Obtain all permits for which it is responsible.
- ◆ Obtain all the rights of way necessary in addition to the site where the plant will be constructed, and their assignment to the endowment of the trust in the case of power plants.
- ◆ Obtain all necessary rights of way in addition to the site where the transmission lines and/or electric substations are to be constructed, and provide the winning bidder access to these sites for the construction of the project.
- ◆ Provide the company all documentation and information required for the financing of the project.
- ◆ Supply electricity during the implementation of the project throughout the construction of the project.
- ◆ Ensure that adequate transmission facilities are built to handle the electric energy generated during testing.
- ◆ Supply fuel for the testing phase.

B.3.2.5. Obligations of CFE after Acceptance of the Facility

Following acceptance of the facility, *CFE* bears the following responsibilities:

- ◆ Quarterly payments, which will be unconditional.
- ◆ Indemnification for changes in Mexican tax laws.
- ◆ Adjustments required due to changes in relevant laws.

B.3.2.6. Issues Related to Ownership of Existing Generation Facilities or Ancillary Equipment

It is possible for a private power producer—whether under a self-supply permit, a cogeneration permit, small-scale production permit or an independent producer

permit—to utilize equipment and/or property belonging to the *CFE*, *LyFC* or *CNA* to implement a project.

In the case of use of infrastructure for generation stations, the Law of National Property permits state agencies to allow the use of these assets by private firms, in accordance with specified guidelines, and after having obtained the relevant permits and the execution of the necessary contracts.

It is also possible to use the services of the national transmission grid, with the execution of the necessary contracts with these two entities. Clearly, such contracts can only be awarded in instances where the necessary infrastructure already exists. If not, the permit holder must construct the infrastructure or provide the resources for doing so in accordance with the terms of the Regulations of the Law on Public Service of Electric Power Regarding Contributions.

Whichever the case, the assets to be used will continue to be the property of the agency that permits their use by private sector entities, which are obliged to pay an appropriate fee or rent for that use, depending on the assets in question.

B.3.2.7. Conditions for Bidding

The *CFE* will publish a tender that will establish the general characteristics of the project, the general conditions of the bid process as well as whether the bidder is domestic or international.

The bid documents should contain: date, place and time of the bidders meetings; deadlines for delivery of the proposals, the meeting for opening the proposals and the date for award of the contract; the language or languages in which proposals may be presented, currency or currencies for payment; criteria for adjudication of contracts; lists of materials and permanent equipment; percentage of required national content; technical and financial capacity; information on advances and guarantees; and the model contract for execution, among other items.

The bidders should present a guarantee with their proposal consisting of an unconditional and irrevocable stand-by letter of credit. The proposals should be submitted on the dates and times established in the bid documents. The bidders must comply with all the requirements established in the bid documents regarding the contents of the proposals.

CFE will evaluate the proposals and award the contract to the bidder that has presented the lowest contract price in addition to having complied with all the requirements established in the bid documents.

B.3.2.8. Guarantees

The winning bidder commits itself to providing *CFE* the following guarantees:

- ◆ **Construction guarantee:** the company guarantees the plant will be designed, constructed, equipped and tested in strict accordance with the contractual stipulations.
- ◆ **Calendar guarantee:** the company commits itself to complete the critical steps in the bid on time through the date of commercial operation.
- ◆ **Performance guarantee:** the company guarantees that the plant will be able to achieve the level of performance offered.
- ◆ **Availability guarantee:** the company guarantees the availability factor of the plant.

To provide these guarantees on the date of the execution of the trust agreement, the company delivers to *CFE* a letter of credit that will vary in its amount depending on the total capacity of the plant. This letter of credit is adjusted to the value stipulated in the contract on the date of financial closing. This applies equally to projects involving transmission lines and electric substations.

The performance guarantee for these contracts must be provided through an unconditional, irrevocable stand-by letter of credit. This guarantee should be issued by domestic credit institutions, or international credit institutions acceptable to *CFE*. In this last case, the guarantee should be issued with notification or advice to a bank that operates legally in Mexico.

The guarantee should conform to International Stand-By Practices of the ICC, as described in ICC Publication 590 (ISP98). In all instances not foreseen by the foregoing rules for letters of credit issued in Mexico, federal legislation in Mexico will be applicable; in the case of letters of credit issued by foreign banks, legislation of New York City, in the State of New York, will apply.

B.3.2.9. Contracts

- ◆ **Trust agreement:** the principal contract from which all issues evaluated in this section are derived.
- ◆ **User contract:** applicable only for power plants. The *CFE* provides to the trust the right to use the site where the plant is to be constructed, so that the trust can put this at the disposition of the winning bidder during the construction period.
- ◆ **Contract for the provision of ownership rights** (applicable only for power station projects): executed by the *CFE* and the fiduciary administrator of the trust, by which the entirety of the necessary property rights for construction

and operation of the plant, including access roads, rights of way necessary for gas and water lines, as appropriate to the particular project, are transferred to the trust.

- ◆ **Energy supply agreement** (applicable only for power plant projects): the *CFE* will provide the company with the electricity necessary for the construction of the plant.

B.3.3. Financed Public Works

B.3.3.1. Generation Projects

General Characteristics

The financed public works arrangement is used for the execution of electric power generation stations, covering all aspects necessary for the construction of the plant in question, including engineering, procurement, supply, construction, testing and commissioning of the plant. In accordance with this arrangement, the contractor is responsible for the construction phase of the project. *CFE* will not issue any advance payment before work commences in the construction phase.

Once the testing is concluded and the project is completed to the satisfaction of *CFE*, it will issue a certificate of provisional acceptance of the plant and will pay the contractor the fixed price stipulated in the contract, which must be the same as the offer price made by the contractor and by virtue of which the contractor was awarded the contract in question.

CFE is responsible for obtaining long-term financing and is also responsible for the operation of the power plant.

The contract price is not subject to adjustments in cost, except for changes in Mexican law that cause variations in customs tariffs.

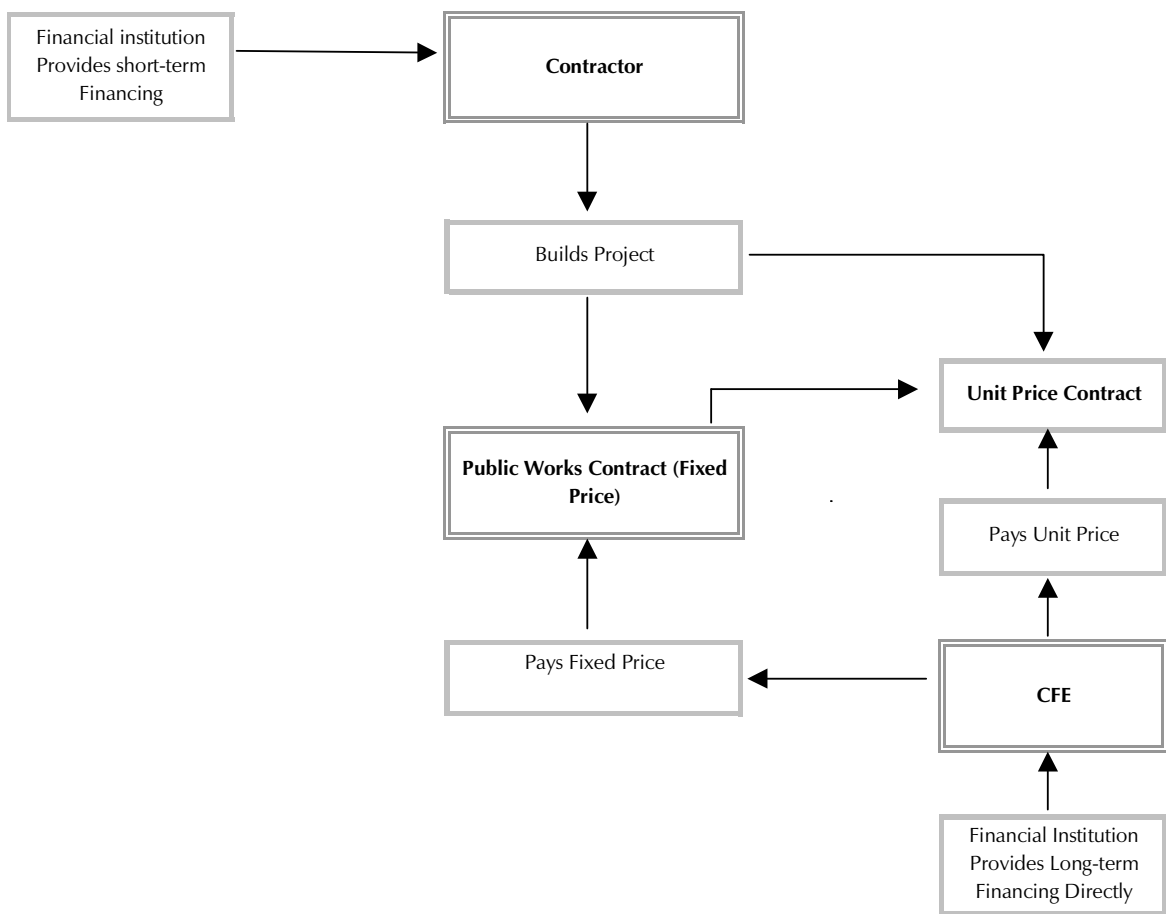
In case of changes in the project that create the necessity of executing additional work, the contractor and the *CFE* may sign a public works contract with unitary prices, which will form part of the annex to the principal contract.

Licenses

The contract will establish the permits that are the responsibility of *CFE* and the contractor. Permits that are not expressly assigned to *CFE* will be the responsibility of the contractor.

Site: *CFE* is responsible for obtaining the site where the project will be constructed, as well as giving the contractor access to the site for the purpose of constructing the plant.

Figure 16: Operational Diagram for Financed Public Works



Property Rights: *CFE* is obligated to give the contractor all property rights necessary for the contractor to have access to the site where the plant is to be constructed (rights of property, possession and right of way).

The contractor is obligated to obtain the rights (rights over real estate, possession and right of way) other than those possessed by *CFE*, that it needs to execute the project (refuse dumping areas, materials storage areas and warehouses, access roads and any other area necessary for the construction of the plant).

MIA: *CFE* is responsible for obtaining and maintaining *MIA*.

Responsibility of Contractor

- ◆ Execute the work necessary for the construction of the generation station.
- ◆ Develop and supply to *CFE* all the engineering necessary for the development of the project.

- ◆ Procurement, supply and transportation of all the materials and equipment necessary for the construction of the plant.
- ◆ Execution of all civil works for the project.
- ◆ Testing and successful commissioning of the plant.
- ◆ Provide to *CFE* the right to use any patent or license necessary for ownership of the plant on a permanent and unconditional basis free of any royalties.
- ◆ Obtain financing for the construction phase of the project.
- ◆ Obtain any permits that are its responsibility, in accordance with the contract.
- ◆ During the construction phase, the contractor is responsible for compliance with relevant regulations in the areas of safety, hygiene and environment.
- ◆ The contractor must comply with the percentage of national content required for the project.

Responsibility of CFE

- ◆ Payment of the fixed price established in the contract.
- ◆ Permitting the contractor access to the site where the plant is to be constructed.
- ◆ Obtaining and maintaining the permits for which it is responsible under the contract.
- ◆ Providing information necessary for the financial close of the project.
- ◆ Cooperating with the contractor on the implementation of the project.
- ◆ Issuing the provisional certificate of acceptance (*certificado de aceptación provisional*) for the project, once the requirements established in the contract have been satisfied.

Conditions for Bidding

CFE will publish a tender that will establish the general characteristics of the project, the general conditions of the bid process, as well as whether the bidder is domestic or international.

The bid documents should contain the date, place and time of the bidders meetings; deadlines for delivery of the proposals, the meeting for opening the proposals and the date for award of the contract; the language or languages in which proposals may be presented; currency or currencies for payment; criteria for adjudication of contracts; lists of materials and permanent equipment; percentage of required national content; technical and financial capacity; information on advances; and the model contract for execution, among other items.

The proposals should be submitted on the dates and times established in the bid documents. The bidders must comply with all the requirements established in the bid documents regarding the contents of the proposals.

CFE will evaluate the proposals and award the contract to the bidder that has presented the lowest fixed price in addition to having complied with all the requirements established in the bid documents.

CFE and the winning bidder will execute the Fixed Price Financed Turn-key Project Contract (*Contrato de Obra Pública Financiada a Precio Alzado*) contained in the bid documents.

B.3.3.1.1. Documents Required in the Presentation of Financed Turn-Key Projects

Bid Documents

The bid documents for *IPP* projects include the details of the technical, financial and legal requirements with which the proposals submitted to *CFE* must comply. Similarly, they establish the language in which the proposal must be presented, the views of the site where the plant is to be constructed, incorporation of national content, the relationship with *SUTERM*, validity, format, signatures, presentation and evaluation of the proposals, signature of the contract, causes for disqualification of proposals, conditions for declaring the bid null and void, acceptable tribunal and applicable law, among other aspects of the bid.

Who May Present Proposals

- ◆ The person who obtains the bid documents.
- ◆ A consortium consisting of more than one company.
- ◆ An *SPC*.

Consortia

A consortium may be created by two or more companies that desire to participate in the bid together with a single proposal. In such cases, the consortium must adhere to the following stipulations:

- ◆ Have among its members one legal entity or affiliate of such an entity, that has acquired the bid documents.
- ◆ Designate a single representative or, if not possible, several representatives, but their legal powers must be legally demonstrated in a single instrument.
- ◆ Each one of the consortium's members must sign a letter of commitment in which they agree to be bound jointly and severally before *CFE*.

Special Purpose Corporations (SPCs)

The bid documents establish the possibility of creating an *SPC* with the purpose of submitting a proposal and executing a contract with *CFE*, provided that this is done prior to the presentation of the proposal and execution of the contract with *CFE*. Once the contract is awarded, *SPCs* may not be constituted.

Bidders' Meetings

Between the publication of the tender and the deadline for proposal submission, bidders meetings will be held. *CFE* establishes in the bid documents themselves the dates for the bidders to file questions and/or comments on the bid documents. *CFE* has the obligation to respond in writing to each one of the questions of the bidders by the dates identified in the bid documents. Accordingly, *CFE* will deliver to all bidders documents containing all the questions and answers prepared. Based on these question-and-answer sessions between the bidders and *CFE*, the bid documents will be modified as *CFE* considers appropriate.

This phase of the bid is very important because it is the only time when the bidders may suggest changes, modifications or additions to the bid documents, including the contract. That is, it is the most opportune time to negotiate with *CFE* all of the elements comprising the bid documents. *CFE* may modify the bid documents throughout the period when questions may be presented and up to 7 days in advance of the deadline for delivering proposals.

Once the contract has been awarded, the winning bidder cannot request changes or modifications in the contract that will be signed with *CFE*, since *CFE* is legally prevented from making changes to the contract after it has been awarded.

Phases of Presentation and Opening of Proposals

The presentation and opening of proposals will be conducted in the following two phases:

- Meeting for Presentation and Opening of Technical Proposals
- Meeting for Opening of Economic Proposals

At the date and time specified in the bid documents, a Meeting for Presentation and Opening of Technical Proposals will be held. In this meeting, proposals are presented in two sealed envelopes. One envelope should contain the technical proposal, and the other should contain the economic proposal. In this meeting, *CFE* opens the envelope that contains the technical proposal to review its contents. The envelope containing the economic proposal remains sealed in the custody of *CFE*, and is opened in the Meeting for Opening of Economic Proposals.

Documentation to be Included in the Technical Proposal

- ◆ Identity of the person presenting the proposal. This requirement is met by a document that gives the name and signature of the person that presents the proposal and this person's identification.
- ◆ Documentation of signatures. A letter in which the bidder presents the signature and initials of the representative(s) who will sign the letter of commitment.
- ◆ The requirement may be completed with a document that clearly indicates the name of the legal representative or representatives of the bidder or consortium and their signatures and initials. In addition, it is recommended that the power of attorney according to this individual or individuals the status of legal representative be noted in the document.
- ◆ A written statement with a sworn declaration that the conditions detailed in the bid documents do not apply to the bidder or any of its shareholders, and that the bidder is not legally prevented from presenting the proposal or executing the contract for any reason (conditions set forth in *LOPSR*, §51.)
- ◆ In the case of a consortium, this document must be signed by each member. In the case of an *SPC*, this document must be signed by its legal representative.
- ◆ A written statement with a sworn declaration that the prices of goods and services of foreign origin offered by the bidder in its proposal are established in accordance with fair trade conditions without the benefit of subsidies or dumping practices. In the case of a consortium, this document must be signed by each one of its members. In the case of an *SPC*, this document must be signed by its legal representative.
- ◆ Name, address, phone and fax numbers of the bidder. In the case of a consortium, this information should be presented for each one of its members. Notarized instruments that confirm the legal powers of the bidder's representatives that sign the letter of commitment and initial the proposal.
 1. Testimony or certified copies of the notarized instruments should be presented.
 2. In the case of foreign documents, these must be notarized with an apostille conforming to the Hague Convention. In the case of companies from countries that are not part of the Hague Convention, the document should be notarized by a Mexican consular official in the country that issued the document, and if necessary legalized by a notary official.
 3. In the event that the notarized instrument is drafted in a language other than Spanish, a faithful translation into Spanish by an authorized translator must also be included, and this translation should be legalized by a notary official when required.
- ◆ For legally incorporated entities, a authenticated copy of its articles of incorporation and modifications, or an authenticated copy of the updated synthesis

of its corporate statutes (this latter obviates the need to present various documents containing modifications to the articles of incorporation).

1. In the case of foreign companies, documents must be notarized with an apostille conforming to the Hague Convention. In the case of companies or consortium members domiciled in countries that are not part of the Hague Convention, the document should be notarized by a Mexican consular official in the country that issued the document.
 2. In the event that the document is drafted in a language other than Spanish, a faithful translation into Spanish by an authorized translator must also be included. The translation must also be notarized.
 3. In the case of a consortium, this document must be signed by each one of its members.
- ◆ The draft contract, with its annexes, initialed on each page and annex indicating that the bidder understands and accepts the contract.
 1. In the case of a consortium, the contract must be initialed by the common representative or at least one of its representatives.
 2. In the case of an *SPC*, this document should be initialed by one of the legal representatives.
 - ◆ Relevant information that describes the financial condition of the bidder, including audited financial statements for the last 2 fiscal years, which include confirmation that the bidder has the minimum capitalization required in the bid documents.
 1. The capitalization should be expressed in pesos or foreign currency, in which case the corresponding amount in pesos will be calculated using the exchange rate prevailing on the date of the audited financial statements for the most recent fiscal period.
 2. The minimum capitalization may be satisfied by a single participant or member of a consortium having at least a 20 percent participation.
 3. Financial statements may be presented in English.
 - ◆ Document detailing capital structure of the bidder.
 1. In the case of a consortium, this document must describe each one its members, and the capital structure of each of the members; it must also contain a description of the function and the responsibilities of each one of the consortium members, including an indication of which member(s) will be responsible for the execution and completion of the construction work and the member who will lead the consortium, who will coordinate the activities of the other members and must serve as the sole point of contact between the *CFE* and the consortium; any and every participant

who will be used to discharge the obligations of the consortium to the *CFE* must be indicated; and the member of the consortium responsible for the overall administration of the project must also be clearly indicated.

2. In the case of an *SPC*, the document must also describe each one its shareholders and the capital structure of each of its shareholders.
- ◆ Documentation demonstrating that the bidder meets the requirements with respect to capacity and technical and operational experience contained in the bid documents.
 1. Printed technical information (such as catalogues) may be presented in English.
 2. The technical requirements may be satisfied by any participant or member of a consortium, provided that this member has at least a 10 percent participation in the consortium or firm bidding on the project.

Documentation to be Included in the Economic Proposal

- ◆ A letter of commitment adopting exactly the model contained in the bid documents.
 1. In this document the bidders commit themselves to executing the contract in the case they are awarded the contract.
 2. In the case of a consortium, this document must be signed by each one of its members. In this document, the consortium members assume joint responsibility before *CFE*.
 3. In the case of an *SPC*, this document must be signed by its legal representative.

Financial and Economic Information, As established in the Bid Documents

The following formats are included in the bid documents, and should be filled out by the bidders:

- ◆ Structure of the financing
- ◆ Total cost of the project
- ◆ Table describing the monthly requirements of materials and equipment and description of equipment sourced locally
- ◆ Fixed price in U.S. dollars.

Requirements to be Observed in Proposal Preparation

- ◆ Proposals must be submitted in Spanish. Original documents drafted in a language other than Spanish must be accompanied by a faithful translation into Spanish, by an authorized translator, which has been legalized by a notary official when necessary. Financial statements and published technical information may be presented in English.

- ◆ A percentage, to be specified in the bid documents, of the total cost of the project (engineering and equipment, excluding construction) must be of Mexican origin.
- ◆ Proposals must remain valid for 120 days, or for the period of time specified in the bid documents for the project in question.
- ◆ Neither the bid documents nor the proposals may be negotiated, and any proposal that contains or imposes conditions, whether express or implicit, will be disqualified.
- ◆ The pages of the original proposal and all copies must be numbered.

Guarantees

The contractor must provide the following guarantees to *CFE*:

Completion guarantee: This guarantee must be delivered to *CFE* within 15 days of receiving notification of the award. The amount of the guarantee will be determined according to the characteristics of the project. Generally, this guarantee is for 10 percent of the value of the contract. Likewise, the guarantee should be valid until the completion of the contract in its entirety.

The completion guarantee for these types of contracts must be provided through an unconditional, irrevocable stand-by letter of credit. This guarantee should be issued by domestic credit institutions, or international credit institutions acceptable to *CFE*. In this last case, the guarantee should be issued with notification or advice to a bank that operates legally in Mexico.

The guarantee should conform to International Stand-By Practices of the ICC, as described in ICC Publication 590 (ISP98). In all instances not foreseen by the foregoing rules for letters of credit issued in Mexico, federal legislation in Mexico will be applicable; in the case of letters of credit issued by foreign banks, legislation of New York City, in the State of New York, will apply.

Quality guarantee: This guarantee should be provided to the *CFE* prior to the provisional acceptance of the plant to respond to any problems that might occur in installations due to hidden defects, and any other responsibility that the contractor might bear.

The guarantee may be provided, at the discretion of the contractor, in any of the following ways: (1) bond issued by a bond company for the equivalent of 10 percent of contract value; (2) an irrevocable letter of credit for 5 percent of contract value; (3) a deposit in cash in a trust account created specifically for this purpose in the amount of 5 percent of contract value.

Premature Termination of the Contract

Accidental circumstances or force majeure: Any event due to accidental circumstances or force majeure that causes an interruption in construction work of 120 consecutive days or a period of 180 nonconsecutive days prior to the scheduled entry into commercial service of the plant will constitute justification for termination of the contract by either of the parties.

Forced termination: In case of any failure to comply with the obligations assumed by each of the parties in the contract, the party that has not failed to comply will have the right to terminate the contract.

If the contractor is noncompliant with the contract, *CFE* will have the right to rescind the contract pursuant to Article 72 of *LOPSR*, with the result that the contractor will pay *CFE* the previously established conventional penalty—exercising the performance guarantee.

If *CFE* is noncompliant with the contract, the contractor will have the right to rescind the contract through the delivery to *CFE* of a notice of rescission of contract.

In both cases, the *CFE* will pay the contractor the applicable termination value of the project.

Conflict Resolution Mechanisms and Applicable Law

Applicable Law

The Fixed Price Financed Turn-Key Contract is based on *LOPSR* and Mexican federal legislation.

Arbitration

In the case of arbitration, International Arbitration is designated as the mechanism for conflict resolution, which will be governed by the Arbitration Regulations of the ICC. Both parties will have the right to resort to arbitration for any disagreement or with regard to any manifest error in the report of the Independent Expert.

- ◆ Arbitration will be conducted in Spanish.
- ◆ The arbitration process will take place in Mexico City, Mexico.
- ◆ The applicable law for points of law will be Mexican law.
- ◆ The arbitration tribunal will be made up of three members, one selected by each one of the parties and the third, who will be the president, selected in accordance with the Arbitration Guidelines of the ICC.

Independent Expert

In the event that the parties cannot resolve their differences on technical, operational or payment-related issues, the dispute will be referred to an Independent Expert for decision. Under this heading are included cases related to the compliance or noncompliance with the specifications of the contract; cases where a delay is attributable to a case of accidental circumstances or force majeure or causes attributable to *CFE*; and any controversy regarding the termination value of the contract.

- ◆ The maximum term for the Independent Expert to render his or her decision will be 30 days.
- ◆ The parties, by mutual agreement, will prepare the list of experts, which will be annexed to the contract.
- ◆ The cost of contracting the Independent Expert will be borne in equal parts by the parties.

Contracts

The contractual agreements established between the producer and *CFE* may include the following:

Unitary Price Public Works Contract (*Contrato de Obra Pública a Precios Unitarios*): In the event that additional work may be required due to unforeseen circumstances, including but not limited to changes in applicable law (other than changes in law that cause variations in customs tariffs), the parties will execute when necessary a unitary price financed turn-key contract, the format for which will be annexed to the fixed price contract. The amount of the unitary price will be up to 25 percent of the fixed price contract or a different amount established by *CFE* in accordance with the specific characteristics of the project. The unitary prices will be determined according to the catalogue of prices presented as part of the winning economic proposal. Additional work performed under a unitary price contract will be paid for at the same time as the work performed under the fixed price contract at the time of provisional acceptance of the project by *CFE*.

The unitary public works contract establishes rights and obligations similar to those identified in the fixed price turn-key contract.

B.3.3.2. Transmission and Power Transformation Projects

General Characteristics

Transmission line and substation projects undertaken using the financed turn-key project arrangement include all the work necessary to complete these types of projects, including engineering, procurement, supply, assembly and construction, testing and commissioning. In accordance with this type of arrangement, the con-

tractor has the responsibility of securing all financing necessary for the construction phase of the project. *CFE* will not issue any advance payment during the construction period of the project.

Once testing is complete and the work has been completed to the satisfaction of *CFE*, it will issue a certificate of provisional acceptance for the lines or substations and will pay the contractor the fixed price as stipulated in the contract, which must be the price offered by the contractor by virtue of which it was awarded the contract in the relevant bid.

CFE is responsible for obtaining long-term financing as well as the operation of the lines and/or substations. The price of the contract is subject to no adjustments, except for changes in Mexican law that cause variations in customs tariffs. In the event of variations in the project that require additional work, the contractor and *CFE* may enter into a public works contract with unitary prices, which will form part of the annexes to the primary contract.

Licenses

The contract will describe which permits are the responsibility of the *CFE* and which are the responsibility of the contractor. The permits that are not expressly the responsibility of *CFE* will be responsibility of the contractor.

Site: *CFE* is responsible for obtaining the site where the lines or substations are to be constructed, as well as permitting the contractor access to the site for the purpose of performing the necessary work to construct the project.

Property rights: *CFE* has the obligation to give the contractor the benefit of all property rights (real rights, rights of possession and rights of way) necessary for the contractor to have access to the site where the lines or substations are to be constructed.

The contractor is obligated to obtain the rights (rights over real estate, possession and rights of way), other than those possessed by *CFE*, that it needs to execute the project (refuse dumping areas, materials storage areas and warehouses, access roads and any other area necessary for the construction of the lines and/or substations).

MIA: The *CFE* is responsible for obtaining and maintaining the *MIA* (see Table 7: Matrix of Permitting Requirements).

Responsibility of Contractor

- ◆ Execute the work necessary for the construction of the lines and/or substations.
- ◆ Develop and supply to *CFE* all the engineering necessary for the development of the project.

- ◆ Procurement, supply and transportation of all the materials and equipment necessary for the construction of the lines and/or substations.
- ◆ Execution of all civil works for the project.
- ◆ Testing and successful commissioning of the lines and/or substations.
- ◆ Provide to *CFE* the right to use any patent or license necessary for ownership of the plant, or to operate, improve, expand or maintain the lines or substations on a permanent and unconditional basis free of any royalties.
- ◆ Obtain financing for the construction phase of the project.
- ◆ Obtain any permits that are its responsibility, in accordance with the contract.
- ◆ Compliance with relevant regulations in the areas of safety, hygiene and environment during the construction phase.
- ◆ Compliance with the percentage of national content required for the project.

Responsibility of CFE

- ◆ Payment of the fixed price established in the contract.
- ◆ Permitting the contractor access to the site where the lines and/or substations are to be constructed.
- ◆ Obtaining and maintaining the permits for which it is responsible under the contract.
- ◆ Providing information necessary for the financial close of the project.
- ◆ Cooperating with the contractor on the implementation of the project.
- ◆ Issuing the provisional certificate of acceptance for the project once the requirements established in the contract have been satisfied.

Conditions for Bidding

CFE will publish a tender that will establish the general characteristics of the project, the general conditions of the bid process as well as whether the bid is national or international.

The bid documents should contain the date, place and time of the bidders meetings; deadlines for delivery of the proposals; the meeting for opening the proposals and the date for award of the contract; the language or languages in which proposals may be presented; currency or currencies for payment; criteria for adjudication of contracts; lists of materials and permanent equipment; percentage of required national content; technical and financial capacity; information on advances; and the model contract for execution, among other items.

The proposals should be submitted on the dates and times established in the bid documents. The bidders must comply with all the requirements established in the bid documents regarding the contents of the proposals. *CFE* will evaluate the proposals and award the contract to the bidder that has presented the lowest fixed price in addition to having complied with all the requirements established in the bid documents. *CFE* and the winning bidder will execute the Fixed Price Financed Turn-Key Project Contract contained in the bid documents.

Guarantees

The contractor must provide the following guarantees to *CFE*:

Compliance guarantee: This guarantee must be delivered to *CFE* within 15 days of receiving notification of the award. The amount of the guarantee will be determined according to the characteristics of the project. Generally, this guarantee is for 10 percent of the value of the contract. Likewise, the guarantee should be valid until completion of the contract.

The completion guarantee for these types of contracts must be provided through an unconditional, irrevocable stand-by letter of credit. This guarantee should be issued by domestic credit institutions, or international credit institutions acceptable to *CFE*. In this last case, the guarantee should be issued with notification or advice to a bank that operates legally in Mexico.

The guarantee should conform to International Stand-By Practices of the ICC, as described in ICC Publication 590 (ISP98). In all instances not foreseen by the foregoing rules for letters of credit issued in Mexico, federal legislation in Mexico will be applicable; in the case of letters of credit issued by foreign banks, legislation of New York City, in the State of New York, will apply.

Quality guarantee: This guarantee should be provided to *CFE* prior to the provisional acceptance of the plant to respond to any problems that might occur in installations due to hidden defects, and any other responsibility that the contractor might bear.

The guarantee may be provided, at the discretion of the contractor, in any of the following ways: (1) bond issued by a bond company for the equivalent of 10 percent of contract value; (2) an irrevocable letter of credit for 5 percent of contract value; (3) a deposit in cash in an escrow account created specifically for this purpose in the amount of 5 percent of contract value.

Contracts

The contractual agreements established between the producer and *CFE* may include the following:

Unitary Price Public Works Contract: In the event that additional work may be required due to unforeseen circumstances, including but not limited to changes in applicable law (other than changes in law that cause variations in customs tariffs), the parties will execute when necessary a unitary price financed turn-key contract, the format for which will be annexed to the fixed price contract. The amount of the unitary price will be established by *CFE* in accordance with the specific characteristics of the project. The unitary prices will be determined according to the catalogue of prices presented as part of the winning economic proposal. Additional work performed under a unitary price contract will be paid for at the same time as the work performed under the fixed price contract at the time of provisional acceptance of the project by *CFE*.

The unitary public works contract establishes rights and obligations similar to those identified in the fixed price turn-key contract.

B.3.4. Fuel Supply Issues

B.3.4.1. CFE Supply Contracts

Depending on the characteristics of the project and in keeping with the guidelines established by *SENER*, *CFE* will assume the risk associated with the fuel to the power plant. This occurs through a Gas Services Contract (*Contrato de Suministro de Gas*), the characteristics of which are as follows:

- ◆ The obligation to supply gas begins on the date of entry into commercial service of the generation station, with a duration equal to the Power Sales Agreement (*Contrato de Compromiso de Capacidad y Venta de Energía*).
- ◆ *CFE* assumes the risk of failure to distribute gas for whatever reason, including accidental circumstances or force majeure.
- ◆ *CFE* is required to supply an alternate fuel to the plant.
- ◆ *CFE* has the obligation to supply all gas or other fuel necessary to complete the testing phase.
- ◆ The producer must pay *CFE* for the fuel used so long as *CFE* pays for the power produced with that fuel. The producer may withhold payment to *CFE* if it fails to pay for the energy.
- ◆ The contract contains a clause that expressly prohibits the compensation of debts for the purpose of giving security of payment to the fixed charges for capacity established in the Power Sales Agreement.
- ◆ In the event of an accidental circumstance or force majeure regarding fuel supply, and during the period of such event, *CFE* will continue to pay for fixed charges for capacity established in the Power Sales Agreement.

- ◆ Disputes regarding technical and operational issues are subject to the decision of an Independent Expert. All other disputes, including legal disputes, are subject to arbitration.
- ◆ The applicable legislation for all contracts is Mexican federal law.

B.3.4.2. PEMEX Supply Contracts

On August 23, 2000, a decision regarding the proposed terms and conditions for the sale of natural gas was published in the *Diario Oficial de la Federación*, the primary purpose of which was to establish principles of equity and avoid discriminatory practices in the market.

These terms and conditions entered into force on October 1, 2000, with a transitory period to protect interests established in accordance with contracts executed prior to that date. The full validity of the terms and conditions will commence April 2001.

The decision establishes the fundamental terms and conditions for sales by PEMEX to end-users (referred to as “first-hand” sales or *ventas de primera mano*) with respect to the following issues:

- ◆ Fundamental clauses are established, such as point of delivery and receipt of gas; changes in the delivery points; gas quality; samples of quality and measurements of quantity; availability of confirmed supplies; assigned quantities and measured quantities; prices and compensations; establishment of the reference index for the price of the gas; assignment of risk regarding the change in property of the gas; accidental circumstances and force majeure; mechanisms for the termination of contracts; conflict resolution; and insurance.
- ◆ The legal framework applicable is contained in the following regulations and laws: (1) implementing legislation for Article 27 of the Constitution on the petroleum sector and its rulemaking; (2) the Law Establishing *CRE*; and (3) the rulemakings and directives that *CRE* may issue.

B.3.4.3. International Fuel Supply Arrangements

Given that nationally produced supplies of natural gas and fuel oil are not sufficient to satisfy the needs of the domestic market, imports of these fuels are required. The lack of sufficient natural gas pipeline infrastructure in the western part of the country, and the fact that the Salina Cruz refinery cannot meet fuel oil demand from the generation plants along the Pacific coast, means that the majority of fuels used in this area of the country are imported.

With the elimination of the tariff for imports of natural gas, both PEMEX and private sector firms are free to go to gas markets in the United States to purchase fuels. For fuel oil, because this is a product refined from petroleum, Mexican law prevents its unrestricted commercialization.

Import Tariffs on Natural Gas

Tariffs on natural gas were eliminated in 2000.

B.3.4.4. Gas Pricing Arrangements

The price of natural gas is established in accordance with the value of the fuel in the Houston market. Various reference prices have been utilized, including Henry Hobbs, Houston Ship Channel and the New York Mercantile Exchange (NYMEX). To date, *CRE* has used the Houston Ship Channel as the reference price. The price of the fuel is adjusted with the inclusion of a transportation cost surcharge that is subject to the volumes that are exported or imported to and from the United States. Accordingly, at the present time, Los Ramones in Nuevo León State is the location where the price of gas coming from the north is equal to the price of gas supplied from the southeast of Mexico.

The transportation cost surcharge is set by *CRE*, and theoretically represents the availability and distance that a molecule of gas must be transported.

B.3.5. Rules Governing Joint Ventures between Private Companies and Parastatal Companies (CFE, LyFC)

This section identifies the requirements for the establishment of joint ventures between the parastatal firms in the electric sector and private entities, in accordance with recent modifications to the Law on Procurement, Leasing and Public Sector Services.

CFE, like any company, may only undertake activities necessary to achieve its primary objective. *CFE* is a decentralized organization of the federal government whose purpose is the execution of the following activities:

1. Provide electric energy service to the public.
2. Export and import electric power to provide this public service.
3. Formulate and propose to the executive branch the operation, investment and financing programs that the provision of this public service may require in the short, medium and long term.
4. Promote scientific and technical research in the electric sector.
5. Promote the development and domestic manufacture of equipment and materials used in the national electric power sector.
6. Enter into agreements and contracts with state governments, public and private institutions and private citizens to conduct activities related to the provision of electric power.

7. Undertake all operations, organize events and execute all contracts that may be needed to achieve its objective.

Similarly, *LSPEE* establishes the possibility that *CFE* might sell or provide technological and/or scientific support and advice or other services. The income from the provision of these services will constitute part of the revenues of the *CFE*.

The law itself establishes that the provision of electricity as a public service consists of the following activities: (1) planning of the national electric system; (2) generation, transmission, transformation, distribution and sale of electric energy; and (3) the construction of all works, installations and activities that require the planning, execution, operation and maintenance of the national electric system.

The provision of electricity as a public service is a technical activity of public administration that is created and controlled to ensure the satisfaction of a collective need in a permanent, standardized and continuous fashion on a not-for-profit basis, subject to a special legal framework.

CFE is limited to performing activities necessary for the provision of electricity as a public service. Its objective does not expressly include the possibility of entering into commercial ventures for its own sake or via the establishment of corporations with objectives other than that of providing a public service. Precisely because of this limitation, *CFE* is not party to any joint ventures or co-investments at the present time.

PART C: ISSUES OF INTEREST FOR BIDDERS

This section details aspects of the bidding process and concerns on which bidders must frequently request clarification. The items are divided in two major categories: Independent Power Producers (*Productor Independiente de Energía*, or *IPPs*) and Financed Public Works. Specifically, the section on *IPPs* includes, among others, the following issues: problems related to the plant site; formulas for setting the value of the plant in case of termination of the contract; issues related to force majeure and political risk; consequences of changes in the Mexican electricity sector or in the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or *CRE*); issues related to fuel pricing and fuel supply contracts; and finally issues related to additional capacity. Also, the section of Publicly Financed Turn-key Projects (*Obra Pública Financiada*, or *OPF*) includes the following issues: long-term financing, lack of sufficient time to obtain financing; unit price contract; guarantees; contracts with Union of Electric-Sector Workers of the Mexican Republic (*Sindicato Unico de Trabajadores Electricistas de la República Mexicana*, or *SUTERM*).

C.1. Independent Producer Projects

C.1.1. Possibility of Expediting Works and Its Consequences

To maintain transparency in the bidding process and for budgetary reasons, Secretariat of Control and Administrative Development (*Secretaría de Controloría y Desarrollo Administrativo*, or *SECODAM*) distributed criteria stating public entities are not authorized to sign additional or modifying agreements to award contracts to expedite the contracted works, and therefore are not authorized to pay contracts in advance that are under the responsibility of the Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*).

C.1.2. Fundamental Criteria for the Application of Penalties

With regard to producers, penalties only occur in cases when the producer does not comply with the fundamental obligations of the contract, which are the completion of the works in the construction stage and the assurance of the required capacity during operation.

With regard to *CFE* and the nature of its commitments, which are mainly related to payments, the consequences of *CFE* not complying with the contract are that the owner of the power plant is allowed to terminate the contract, obligating *CFE* to buy the power plant and indemnify the producer.

C.1.3. Risks in Obtaining Permits for Both Parties (Bidders and CFE)

In case *CFE* or the producer does not obtain the requisite permits before initiating construction, the contract will be considered terminated, with no party responsible, except in the case when the producer does not obtain the permit for independent producer of energy, which is under the responsibility of the producer. If the producer does not obtain this permit, the producer will be held responsible for not following through with the contract.

Upon beginning the construction and during the life of the contract, if the producer does not obtain and maintain the permits needed, the producer will receive a conventional penalty, possibly including termination of the contract. In case *CFE* does not obtain the permits that it specifically needs, the producer may terminate the contract and demand the purchase of its installations.

C.1.4. Issues Related to Percentage on Integration of National Goods and Services

Bidders for *IPP* projects should take into account that at least 25 percent of the total cost of engineering, supply and construction should be of Mexican origin. Proposals should clearly indicate the components that are of Mexican origin, the total amount in U.S. dollars of the Mexican portion, and the total percentage of the Mexican components with respect to the total cost of the project.

CFE will verify whether or not the project complies with the 25 percent minimum of national goods and services through procedures established in the bidding contracts, or other means that the Commission may establish and is agreed upon between the parties. Invoices for the purchase of equipment or works will be used to prove the percentage of national goods and services.

To this effect, the producer should deliver to *CFE*, within the given deadline, a report and supporting documents showing the costs of engineering, procurement, and construction, specifying the percentage of products of Mexican origin. This percentage can be divided as follows: (1) civil works; (2) electro-mechanical assembly; (3) turbo generator components; (4) steam generator components; and (5) auxiliary equipment.

To determine if the product is of Mexican origin, the producer should comply with Chapter IV of the North American Free Trade Agreement. If the product qualifies as a product produced in Mexico, based on the regulations of the agreement for the origin of goods, the producer can apply the value of the good towards fulfilling the minimum percentage requirement.

To determine if a service is considered of Mexican origin, the producer should apply the following rule: a service originates in Mexico if the service is performed in Mexico by a person employed by a Mexican firm constituted under applicable Mexican law. The producer can then apply the value of the service towards fulfilling the minimum percentage requirement.

CFE has the right to audit the producer or the contractor to determine whether or not they are complying with the minimum requirement of Mexican goods and services.

If, before the date of commercial operation, it is determined that the percentage of the total cost of the products, or services of Mexican origin is less than 25 percent, then the producer will be required to pay a conventional penalty established in the respective contract for each percentage point difference between the 25 percent minimum and the actual percentage of goods and services of Mexican origin that are being used.

C.1.5. Problems Related to the Plant Site

In accordance with the regulations of the Law on Public Service of Electric Energy (*Ley del Servicio Público de Energía Eléctrica, or LSPEE*), the producer may freely choose the site on which the plant will be built. *CFE* offers an Optional Site where, if chosen by the producer, *CFE* will assume the obligation to provide the necessary services (water, access roads, etc.), as well as the risks inherent in the provision of those services.

In case the producer decides not to choose the site offered by *CFE*, the producer will assume all the risks inherent in the site, as well as the availability of the services.

C.1.6. Formulas for Setting the Value of the Plant in Case of Termination of the Contract

Value of the Plant in Case of Termination of the Contract

The acquisition price was designed with the objective of indemnifying the producer or the Commission, in case the contract is prematurely terminated. It is the price that should be paid to the producer in case one of the parties requires the purchase of the assets of the project due to force majeure, an unexpected event, or noncompliance as cited in the contract.

The formulas that calculate the price take into account the two periods that compose the full duration of the project: construction and operation. This is because the assignment of risk is different for each of the parties, depending on when termination of the contract occurs.

Construction Period

Termination of the Contract Due to Political risk and/or Noncompliance by *CFE*

This case considers the construction risk taken on by the producer when it is not able to finish the project due to reasons attributable to *CFE* or the federal government. The payment formula takes into account the work performed until the moment of contract termination, including a risk premium for the capital invested by the shareholders (return on capital) during the construction period, the costs in-

curred by the producer for breaking any other contracts (construction contracts, service contracts, financial contracts, etc.), and any fees incurred for insurance payments.

Termination of the Contract Due to Noncompliance by the Producer

This case considers the risk taken on by the lenders, since they have a right to receive payment for the debt incurred by the producer, when the latter may be responsible for the termination of the contract. Nonetheless, due to the fact that the contract termination is caused by the producer, it cannot receive the return on equity provided by the investors.

Termination of the Contract Due to an Unexpected Event or Force Majeure

This case evaluates the payment of assets without prejudice to any of the parties. That is, the costs of termination are distributed among the parties to the contract and payment is made for the value of the project works completed at the moment of termination, taking into consideration part of the equity invested (half of the return on equity invested in the project is paid to the producer, and the other half is to be considered a loss).

Operation Period

Termination of Contract Due to Noncompliance by CFE or Political Risk

If the producer wants its assets to be purchased, then it will be paid the remainder of the discounted fixed capacity charges (*Cargos Fijos de Capacidad*, or *CFdC*) at the average rate derived from the debt and capital registered in the financial agreements; this means that the producer will pay the creditors, and will get the return on his investment.

If the producer wants to keep its assets, but also wants to rescind the contract, it will be paid the difference of the sum of the present value of the remaining payments, plus a reasonable payment for the cost of breaking the contract, plus the value of the project assets connected to the guaranteed net capacity at the moment of contract termination (determined by an independent auditor).

Termination of Contract Due to Noncompliance by the Producer

The creditors only receive the unpaid balance of the debt used to finance the construction of the assets, considering only the part associated with the guaranteed net capacity, in accordance with the financial agreements signed by the producer and the lenders.

Termination of Contract Due to an Unexpected Event or Force Majeure

In this case, only an average of the *CFdC* payments, using the discounted at the rate applied to debt and investment, and the amount of the debt, in other words, the only half of the return contemplated in the *CFdC*, less insurance payments collected in accordance with the contract.

C.1.7. Issues Related to Force Majeure and Political Risk

Due to its nature, the emergence of some unexpected event or force majeure that impedes the parties from fulfilling their contractual obligations exonerates them all from responsibility. Nonetheless, to make the financing of projects possible, *CFE* assumes the political risk derived from certain events such as war, strikes in Mexico, changes in Mexican law, fuel supply and intervention by Mexican authorities, among others.

C.1.8. Consequences of Changes in the Mexican Electricity Sector or in CFE

The contract has provisions to protect the producer in the event that *CFE* is transformed and, therefore, cannot comply with its contractual obligations by allowing the producer to immediately terminate the contract.

In case of an eventual transformation of the Mexican electricity sector, the contract has a provision that allows any of the parties to terminate the contract by paying the necessary compensation to the other party. For this clause to be applicable, the consent of both parties is necessary.

C.1.9. Fuel Issues: Price, Supply and Fuel Supply Contract

On January 17, 2001, the Mexican Secretariat of Energy (*Secretaría de Energía*, or *SENER*) announced concrete actions to mitigate the adverse effects caused by the high prices of natural gas. It signaled that PEMEX is an exporter of natural gas, that the national budget foresaw a price of US\$3.92/mmBTU, and that PEMEX has acquired, and will continue acquiring, future contracts to protect itself from the increases in natural gas prices.

The industrial consumers of natural gas in Mexico have been offered a 3-year sales contract at a fixed reference price of US\$4/mmBTU. These contracts are only offered to the current customers of PEMEX. The natural gas consumption of these companies must be equal to their average consumption in 2000. The contracts will contain express provisions that prohibit the resale of natural gas.

CRE will emit a new directive that contains the conditions and terms of the contractual arrangement, which should be published at the end of January 2000. Cur-

rently, there does not exist any information in relation to the costs of natural gas transport nor how natural gas users located between Juarez City and Tijuana will be treated, although they may need to import natural gas from the United States.

C.1.10. Issues Related to Additional Capacity

The bidding rules anticipate the possibility that producers may construct more capacity than is required in the bid, which can be used for self-supply, cogeneration or exporting. In case of early termination of the contract, for any reason, *CFE* is only obligated to pay the costs related to the required capacity. All risks coming from the construction of additional capacity are the responsibility of the producer.

C.2. Publicly Financed Turn-key Projects

C.2.1. Issues Related to Long-term Financing

The bidding rules state that the bidders can offer *CFE* long-term financing when it comes from export agencies and Exim Bank, and is approved by the Secretariat of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*, or *SHCP*). Currently, however, the existence of long-term financing is not taken into account in the economic evaluation of the bid.

The difficulty of this subject has to do with whether or not long-term financing could be taken into account in the mechanisms for evaluating the fixed price, and, therefore, whether or not that could influence who is awarded the contract. Currently, long-term financing is not a part of the evaluation of the economic proposal.

C.2.2. Lack of Sufficient Time to Obtain Financing

For short-term contracts in which only the contractor assumes the financial risk for the construction of the project, a time period is not established to close the project financing. For purposes of the law, the moment the contract is signed is the date upon which project construction legally begins.

C.2.3. Issues Related to the Unit Price Contract

The contract for publicly financed works based on unit pricing constitutes an annex to the fixed price contract. This contract is signed only when there is additional work approved by *CFE*. For this type of contract to be ratified, it must comply with the requirements established in the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*, or *LOPSR*) if it concerns a contract for public works that is given by direct award.

The price for this contract will be determined based on the list of prices presented as part of the economic proposal of the winner.

C.2.4. Issues Related to Guarantees

Modifications to *LOPSR* absolve bidders from presenting a guarantee on the seriousness of the offer. Nonetheless, if the winning bidder does not sign the contract, *SECODAM* will prohibit the bidder from participating in any future call for bids.

C.2.5. Difference in the Criteria with Regard to Risks Derived from a Precise Legal Framework

The fixed price contracts for publicly financed projects are subject to the application of *LOPSR*, which regulates that the contracts cannot be modified in cost or duration. Nonetheless, Article 59 of *LOPSR* states that in cases when economic circumstances arise that are out of the control of the parties and were not considered in the proposal, *CFE* should recognize increases in the costs or the duration of the contract or demand the applicable reductions in the costs or duration of the contract. This is based on *SECODAM* requirements, which at this time have not been issued; therefore, *CFE* does not yet recognize these variations.

Currently, *SECODAM* only permits *CFE* to recognize variations in costs that come from changes in duties and import taxes.

C.2.6. Issues Regarding Contracts with SUTERM

Relations with labor unions should be agreed upon with *CFE*. *CFE* does not intervene in negotiations between the contractor and *SUTERM*.

CFE will deliver the salary table to the bidders, which will be used as a reference for labor cost calculations, with the understanding that the bidders should estimate the real salaries that will be paid by the contractor, taking into account the diverse aspects related to the labor market. Estimations of the economic impact of labor unions with *SUTERM* and relations with working individuals, for the purpose of the proposal, are the sole responsibility of the bidders.

PART D: REVIEW OF BASIC LEGISLATION

This part covers the current federal legislation that is related to the electric sector in Mexico and presents 28 different laws and regulations. A matrix of these laws and their relevance to the different types of projects is also provided.

D.1. Purpose

The purpose of this section is to summarize the legislation at the federal level that establishes the framework for the operation of the electric sector and governs the activity of all participants, whether public or private. While this section does not contain an analysis of the legal framework, nor does it repeat the substance or text of the laws and regulations, it does provide the citations required to direct the user to the actual laws and regulations.

The summaries are presented to facilitate consultation by the user, as well as to allow comparison between different laws and regulation. The format used is as follows:

- ◆ Title
- ◆ Authority (agency charged with power of implementation)
- ◆ Objective
- ◆ Relevant aspects
- ◆ Date of publication in the *Diario Oficial de la Federación* (DOF)—date of entry into force
- ◆ Date of publication of last modification to the law in the DOF
- ◆ Internet address of complete text of legislation or regulation

The legislation and regulations included in this section are as follows:

- D.1.1. Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*)
- D.1.2. Law on Public Service of Electric Energy (*Ley del Servicio Público de Energía Eléctrica*)
- D.1.3. Regulations of the Law on Public Service of Electric Power (*Reglamento de la Ley del Servicio Público de Energía Eléctrica*)
- D.1.4. Regulations of the Law on Public Service of Electric Power Regarding Contributions (*Reglamento de la Ley del Servicio Público de Energía Eléctrica en Materia de Aportaciones*)
- D.1.5. Natural Gas Regulations (*Reglamento de Gas Natural*)

- D.1.6. Law of the Energy Regulatory Commission (*Ley de la Comisión Reguladora de Energía [CRE]*)
- D.1.7. Regulations on Dispatch and Operation of the National Electric System (*Reglamento de Despacho y Operación del Sistema Eléctrico Nacional*)
- D.1.8. Federal Law of Parastatal Entities (*Ley Federal de Entidades Paraestatales*)
- D.1.9. Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*)
- D.1.10. Law on Budgets, Accounting, and Federal Public Spending (*Ley de Presupuesto, Contabilidad y Gasto Público Federal*)
- D.1.11. Regulations on Long-term Productive Infrastructure Projects (*Regulación de los Proyectos de Infraestructura Productiva de Largo Plazo [PIDIREGAS]*)
- D.1.12. Law on Procurement, Leasing, and Public Sector Services (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*)
- D.1.13. Organic Law of the Federal Public Administration (*Ley Orgánica de la Administración Pública Federal*)
- D.1.14. General Law on Mercantile Corporations (*Ley General de Sociedades Mercantiles*)
- D.1.15. Law on Foreign Investments (*Ley de Inversión Extranjera*)
- D.1.16. Commercial Code (*Código de Comercio*)
- D.1.17. General Law on Securities and Credit Operations (*Ley General de Títulos y Operaciones del Crédito*)
- D.1.18. Monetary Law of the United Mexican States (*Ley Monetaria de los Estados Unidos Mexicanos*)
- D.1.19. Federal Law on Economic Competition (*Ley Federal de Competencia Económica*)
- D.1.20. General Law on Ecological Equilibrium and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*)
- D.1.21. North American Free Trade Agreement (NAFTA)
- D.1.22. Agrarian Law (*Ley Agraria*)
- D.1.23. Overview of Relevant State and Municipal Legislation
- D.1.24. Prospective of the Electric Sector (*Prospectiva del Sector Eléctrico*)
- D.1.25. Forestry Law (*Ley Forestal*)
- D.1.26. Federal Law on Fees (*Ley Federal de Derechos*)

- D.1.27. Implementing Legislation for the Forestry Law (*Reglamento de la Ley Forestal*)
- D.1.28. Rulemaking related to the General Law on Ecological Equilibrium and Environmental Protection (*Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en Materia de Evaluación de Impacto Ambiental*)

D.1.1. Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos)

Implementing Authority: Generally observed by all legal authorities; it is the supreme law of the nation.

Objective: Provide the general legal framework upon which all other legislation is based.

Relevant Aspects from the Perspective of the Electric Sector

Article 25

Mandates that the public sector will be exclusively in charge of the strategic areas cited in Article 28 ¶4; the federal government will maintain permanent ownership and control over any entities that are established. As regards electricity, the appropriate entities are the Federal Electricity Commission (*Comisión Federal de Electricidad*, or *CFE*) and Central Light and Power (*Luz y Fuerza del Centro*, or *LyFC*).

Article 27

Establishes that it is the state's exclusive domain to generate, transmit, transform, distribute and supply electric energy that is designated for public service.

Article 28

Stipulates that certain functions of the state that are considered strategic for the nation will not be considered monopolies; the generation of electric power falls under this category. In addition, this article affirms that the state will have the organizations and companies that it requires for the efficient administration of the strategic areas under its charge and priority activities.

Article 134

Establishes the constitutional basis for public bids. This article declares that the acquisition, leasing and transfer of all types of goods, the lending of services of any nature and the contracting of works carried out by government entities will be awarded or conducted by public bidding through a public hearing. Serious proposals are to be submitted in sealed envelopes that will be opened publicly to ensure that the state receives the best conditions possible with regard to price, qual-

ity, financing, timeliness and other pertinent issues.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.2. Law on Public Service of Electric Energy

Authority: Secretariat of Energy (*Secretaría de Energía*, or *SENER*)

Objective: This law is the principal legislation regulating the provision of electric energy as a public service, including the organization and function of *CFE* based on its Organic Law. It is this law that regulates private investment in the sector.

Relevant Aspects from Perspective of Electric Sector

Basic Principle

To benefit, in both the short term and long term, from low-cost, high-quality and stable electric energy production, whether it originates from *CFE* or independent permit holders.

Reforms That Permit Private Investment in the Sector

Articles 36 through 39. These sections provide for private investment in the generation of electricity, with the stipulation that they may not provide this service directly to the end-user. It allows for private competition in those activities not considered as public service through the granting of permits for the self-supply, cogeneration, independent production, small production, importing or exporting of electric energy.

Article 45. Permits *CFE* to submit itself to international arbitration and foreign tribunals for commercial affairs for which the application of foreign laws is suitable in order to advance *CFE* towards achieving its institutional goals.

Activities Considered As Public Service

Planning for the National Electric System.

- The generation, transport, transformation distribution and sale of electric energy.
- The undertaking of all the planning, construction, operation and maintenance that the national electric system requires.

Activities Not Considered As Public Service

- The generation of electric energy for self-supply, cogeneration or small production.
- The generation of electric energy by independent producers for sale to *CFE*.
- The generation of electric energy for exportation, originating from cogeneration independent production and small production.
- The importing of electric energy by legal entities, exclusively for purposes of self-supply.
- The generation of electric energy designated for emergency uses due to interruptions in public supply.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.3. Regulations of the Law on Public Service of Electric Power

Authorities: *SENER* and the Energy Regulatory Commission (*Comisión Reguladora de Energía*, or *CRE*)

Objective: This regulation forms the base of all subject matter related to the generation, transmission, transformation, distribution and commercialization of electric energy. Furthermore, constitutional Article 134 establishes public bidding as the mechanism for the Federal Public Administration to contract works and services.

These regulations establish the guidelines for self-generation, cogeneration, independent power production, exporting and importing of electric power, as well as guidelines for the bidding process and contract mechanisms for these types of projects.

Relevant Aspects from the Perspective of the Electric Sector

Tariff Provisions

The Secretariat of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*, or *SHCP*) with the participation of *SENER*, is in charge of fixing, adjusting, modifying or restructuring the tariffs for electric energy. Tariffs are proposed by *CFE*.

Planning and Prospective of the Energy Sector

This regulation establishes that *CFE* must elaborate and remit the following documents to *SENER* at least once a year: (1) a prospective document on the tendencies of the nation's electric sector and (2) the plans for carrying out the works that *CFE* intends to execute to fulfill its public service role.

Permits

The regulation states that self-supply, cogeneration, independent production, small production, exporting and importing of electricity destined for self-use are activities subject to previous approval by *SENER*.

Call for Proposals

Calls for proposals are published in the *Diario Oficial de la Federación (DOF)*, in a newspaper of the federal province in which the capacity is required, and potentially in publications outside of Mexican national territory as deemed appropriate.

CFE may offer in the public bid a specific site for the plant in question. The selection and acquisition of the designated site will be optional for the bidders. Under no circumstance will the winner of the bid be chosen for locating the plant at the site offered by *CFE*.

The bidding rules are created to give interested parties the flexibility to choose the technology, fuel, design, engineering, construction and location of the installations. Nonetheless, precise specifications for fuel type may be highlighted in the call for proposals.

Electric Power Transmission Services

Permit holders may ask for the right to transmit electricity through *CFE*'s transmission lines. This service is offered through contract and the permit holder must compensate *CFE* for services rendered.

When there is capacity to transmit additional electricity with existing installations, *CFE* will offer the use of its transmission lines to permit holders that ask for this service, giving preference to those that request it first.

When *CFE* cannot offer transmission services due to technical impediments, it will inform the interested parties as to why it cannot offer this service. Permit holders that are not in agreement with *CFE*'s explanation may request the intervention of *SENER*.

Electric Power Transmission Services to Permit Holders

If *CFE* cannot possibly offer the use of its transmission lines, *CFE* can convene with the interested party to discuss the construction of the necessary installations, dividing the cost of the investments as agreed by both parties. If *CFE* and the interested party do not arrive at an agreement, the latter can request the intervention of the Secretariat of Energy.

The charges for transmission service that *CFE* offers to permit holders is calculated using the costs incurred by the service. *CFE* will propose the respective methodology, which is approved by *SENER* and *SHCP*.

Electric Power Supply Services

CFE will provide back-up capacity to an external producer unless there are technical or economic reasons that impede *CFE* from doing so. This can be achieved through the execution of a supply contract between *CFE* and the interested party. The tariff for the back-up capacity applies to all external producers.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.4. Regulations of the Law on Public Service of Electric Power Regarding Contributions

Authority: *SENER*

Objective: To regulate the circumstances and conditions under which applicants for public service to provide electricity must make contributions in the form of undertaking specific projects, whether expansion or modification of existing installations, as well as those for which they may agree to have reimbursed by the service provider in the form of electric energy.

Relevant Aspects from the Perspective of the Electric Sector

Basic Regulations

Interested parties that require service from the service provider (*CFE* or *LyFC*) with any of the conditions below will be obligated to undertake contributions.

- ◆ A work that requires the full design and installation up till the point of supply for the requested service, that complies with the official Mexican norms or, in their absence, with the technical specifications of the service provider.
- ◆ An expansion of the existing installations of the service provider that could comprise equipment, material, and necessary works to increase its generating capacity, and that could be used for the provision of the required service in low or medium tension.
- ◆ A modification of the service provider's existing installations.

The service provider is obligated to provide the service to the interested party if the corresponding contribution for the purpose of pursuing the most economic solution is undertaken, or if the interested party carries out the required works,

complying with the applicable juridical dispositions.

Calculation and Determination of Agreements

CFE and *LyFC* submit the model of the respective contract to *CRE*, which must contain at least the following components and requirements:

- ◆ Name, denomination or trade name and address of the applicant and the supplier.
- ◆ Purpose of the contract.
- ◆ Description and total cost of the building sites, where ownership title will be transferred to the service provider for incorporation into the national electric system.
- ◆ Description of the service and energy pricing program.
- ◆ Technical provisions matching those that will be performed for the construction, operation, and maintenance of the structures.
- ◆ Program for the implementation of the construction project.
- ◆ Supervision programs for the work to be completed and the previous tests to ensure smooth provision of electricity services, in case the applicant decides to carry out the work.
- ◆ Total cost of the applicant's contribution, as well as the form of payment—indicating the amount that will be covered with cash or in kind—the time of payment and the place of payment. The exception to this rule is when the applicant designs and constructs the necessary structures and installations for the provision of electricity with its own resources.
- ◆ Timetable and place for the delivery of the materials and equipment.
- ◆ Taxes and other contributions that, if required, are applicable to each of the parties.
- ◆ If applicable, the total amount of the refund, its form, and its time and place of payment in accordance with what is established in the regulations.
- ◆ If applicable, the precautions, terms and conditions that determine whether or not additional expenditures are necessary and the manner in which they will be paid for.
- ◆ The general rules under which the reimbursement will be dictated, considering the particularities of each case, when the user believes that the service provider has benefited itself substantially from the applicant's work. The right of the applicant to demand this reimbursement is limited to a period of no more than 5 years beginning on the date that the plant first begins operation; if applicable, stipulations to ensure the appropriate shut down of the plant.
- ◆ Causes for and consequences of the termination or annulment of the contract.

Payment Type and Period

CRE approves the service provider's list of prices as well as the criteria to determine and update the total amount of contributions by state and municipal governments and parties interested in the public service of electric energy, in order to carry out new projects, or the expansion or modification of the existing system, as requested by those entities.

The criteria to determine the total amount of contributions will be published in the *DOF*, and the service provider will provide this information directly to the soliciting parties.

The interested party can pay the charge for the specific work in the following ways:

- ◆ In cash to pay for the part that corresponds to the costs incurred by the service provider in completing the work, material and equipment necessary to provide the service.
- ◆ In cash and in kind, paying for part of the contribution through delivery to the service provider, in whole or in part, of the necessary equipment and materials, and paying in cash for the part that corresponds to the costs incurred by the service provider for the work and the rest of the materials and equipment necessary to provide the service.

Execution of Specific Projects

The supplier will design and construct the particular work using the least-cost technical proposal of the interested party.

The interested party can opt to design and construct the works and installations that are required for the supply of the service using its own resources, in which case it will not be required to pay the service provider any charge for the constructed works.

When it is the requesting party that constructs the distribution network, it must do so under the supervision of the service provider and adhere to the Official Mexican Standards (*Norma Oficial Mexicana*, or *NOMs*) or, if they are not applicable, adhere to the technical requirements of the service provider.

Procurement of Services

The request for service must be presented to the office of the service provider and must contain information about demand and project characteristics as well as plans regarding costs, the date on which the service is required and other data and documents that may be necessary.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.5. Natural Gas Regulations

Authorities: *SENER, CRE*

Objective: Regulates first-hand sales of oil, as well as activities and services in the natural gas sector to ensure the efficient supply of oil and gas. The regulation covers all aspects regarding the transport, distribution and storage of natural gas.

Relevant Aspects from the Perspective of the Electric Sector

Permits

Prior permission is required from *CRE* to undertake the transport, storage and distribution of natural gas. These permits will only be offered to public sector companies and commercial companies. PEMEX and other public sector entities dealing with energy are subject to the provisions of these regulations.

General Conditions for the Provision of Natural Gas Transport Services

The general conditions for the provision of natural gas service are approved by *CRE* and contain the following:

- ◆ The tariff levels for the provision of the services.
- ◆ The terms and conditions for access and the various forms that the provision of the service may take.
- ◆ The rights and obligations of the service provider (permit holder).
- ◆ The legal procedure that the permit holder proposes for the resolution of any controversy that may come from the provision of the service.

Procedure for the Provision of Permits through the Bidding Process

The bidding procedure will be initiated by *CRE* for transport projects promoted by the federal government or by the governments of the states. The call for proposals will be published in the *DOF*.

Furthermore, *CRE* describes the minimum criteria for the proposal: the objective; the project description; the technical specifications of the project; the requisite documentation and the time given for their delivery to *CRE*; the method to accredit the technical, financial and administrative capabilities of the project; the form and

amount of guarantees; the methodology to create tariffs; the procedure for presenting the proposals; the information that should be included in the technical and economic proposals; the criteria for awarding the permit; the information relevant to the committee providing clarifications and explanations; the place, date and hour for the presentation and opening of the proposals; and the reasoning behind the rejection of the proposals that are not accepted.

CRE will announce the winning bid within 3 months of receiving the proposals. *CRE* grants the permit to the entity that, having passed the technical specifications, offers the least-cost proposal.

Tariffs

The methodology for the calculation of the initial tariffs is determined by *CRE* through the issuance of directives.

The methodology must allow permit holders to rationally utilize their resources in the case of the initial tariffs that are set, and in the case of tariff adjustments, the methodology must allow permit holders that are efficiently transporting gas to obtain sufficient revenues to pay for operation and maintenance costs.

Entities interested in obtaining a permit to be able to provide natural gas services must propose their maximum tariffs. Tariffs charged by a permit holder cannot be unfairly discriminatory or conditioned on the provision of other services.

The tariffs imposed by a permit holder for each service will include all the charges and components applicable to that service, such as connection charge, capacity charge and usage charge.

Lien for a Natural Gas Transport Permit

The holder of a transport, storage or distribution permit for natural gas can put a lien on the permit, and the rights derived from the permit, in order to guarantee financial obligations directly related with the provision and extension of the service, as well as debts incurred due to operations. The permit holder must advise *CRE* of its intention 10 days prior to the granting of the guarantee.

The permission of *CRE* is necessary when the permit, or the rights derived from the permit, are placed under lien for other purposes. The connecting systems cannot be placed under lien independently of the permit, nor vice versa.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.6. Law of the Energy Regulatory Commission

Authority: *SENER*

Objective: This law regulates the activities and organization of *CRE* and its facilities, establishing *CRE* as a decentralized organization of *SENER*, with operational autonomy.

The objective of *CRE* is to promote the development of the supply and sale of electric energy; the generation, exportation and importation of electric energy; and the transmission, transformation and delivery of electric energy among the entities that are in charge of the provision of these services. *CRE* promotes similar activities in the natural gas and petroleum sectors.

Relevant Aspects from the Perspective of the Electric Sector

Functions of *CRE*

One of the principal functions of *CRE* is to determine tariff levels for the supply and sale of electricity jointly with *SHCP* and Secretariat of Economy (*Secretaría de Economía*, or *SE*).

CRE verifies that the entities that are in charge of providing electric energy for public service do what is necessary to keep electric energy costs low.

CRE issues its opinion to the *SE* about the feasibility of issuing bids for the supply of electric energy, and about the terms and conditions of the calls for proposals. It grants and revokes permits for the generation, exporting and importing of electric energy. It also approves the terms and conditions for the provision of natural gas services, which are the transport, distribution and storage of natural gas.

CRE approves the methodology used to calculate the remuneration for the acquisition of electricity destined for public service. It proposes updates of the legal framework for the energy sector to the *SE* and participates in the formulation of laws, decrees, regulations and *NOMs* for the energy sector.

CRE approves the terms and conditions for the first-hand sales of natural gas and liquefied petroleum gas, and it diffuses the methodologies to determine prices. *CRE* approves the frameworks for contracts and agreements for conducting the activities mentioned above. This does not apply to contracts for the independent production of energy, since they result from open competition according to the particulars of each case.

CRE also has the power to act as a mediator or arbiter to help resolve controversies that may arise from the regulated activities.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.7. Regulations on Dispatch and Operation of the National Electric System

Authority: *SENER*

Objective: The objective of these regulations is to establish the criteria under which the allocation of units and the generation plan is determined, therefore minimizing the variable costs of the operation. The criteria are reliability of the system; availability of the elements of the power system (generators and transmission lines); need for contributions and availability of hydraulic resources; efficiency of thermo-electric processes; price and availability of fuel; and the inflexible aspects of the system.

Relevant Aspects from the Perspective of the Electric Sector

The National Energy Control Center (*Centro Nacional de Control de Energía*, or *CENACE*) is the agency charged with the operation, planning, administration, supervision and control of the National Electric System (*Sistema Eléctrico Nacional*, or *SEN*); its areas of jurisdiction range from the coordination of the operation of generation units interconnected with the *SEN*, including both private as well as *CFE* units, up to the interface with the distribution system. At the same time, *CENACE* is the agency charged with applying the Regulations on Dispatch and Operation of the National Electric System.

CENACE is an agency created by *CFE* and forms part of the Transmission, Transformation and Control Division (*Subdirección de Transmisión, Transformación y Control*) of *CFE*.

To achieve the basic objectives of the *SEN*, *CENACE* conducts the following activities, and may undertake others:

- ◆ Operations planning studies for the development of the *SEN*
- ◆ Short- and medium-term demand and predispatch forecasts
- ◆ Demand forecast and hourly block predispatch and network studies
- ◆ Conceptualization and modernization of operations centers and control of reservoir levels
- ◆ Coordination of hydroelectric plant operations
- ◆ Generation and voltage control
- ◆ Supervision of reliability, continuity, quality and economy of service

- ◆ Dispatch, operation and control of reservoir levels
- ◆ Supervision of permits, licenses and activities at installations
- ◆ Participation in the development and preparation of interconnection agreements with domestic and international companies
- ◆ Coordination of maintenance programs

The dispatch and operation of the *SEN* is intended to result in the provision of public service of electricity and ensure that the following objectives are achieved:

- ◆ **Reliability.** This refers to the *SEN*'s ability to remain in operation, without exceeding the capacity of the equipment in the system, within the stipulated parameters for voltage and frequency and without affecting users, in the event of a phase-one contingency.
- ◆ **Continuity.** This refers to the uninterrupted supply of electricity to users, in accordance with the applicable standards and regulations.
- ◆ **Quality.** This refers to the characteristics of the public service of electricity provided to users, in terms of voltage, frequency and wave form.
- ◆ **Economy.** This refers to the lowest overall cost of the kWh of electricity, resulting from the optimal use of fuels, of generation resources and of the grid, taking into consideration the most appropriate generation units and the assignment of the most appropriate capacity, while maintaining availability, environmental restrictions, cost and consumption of fuels, transmission losses and contractual obligations.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.8. Federal Law of Parastatal Entities

Authorities: *SHCP*, Secretariat of Control and Administrative Development (*Secretaría de Controloría y Desarrollo Administrativo*, or *SECODAM*)

Objective: This law establishes the organizational form and function of parastatal entities and their relationship with the central government.

Relevant Aspects from the Perspective of the Electric Sector

Relevance to *CFE* Investments

As part of the central government, the parastatal entities are entities or agencies created to develop activities that are the responsibility of the state. Those entities that have the specific characteristics of being decentralized and autonomous are

bestowed with parastatal legal status and legal regime. *CFE*, as a decentralized governmental agency, is subject to the application of this law.

The activity of parastatal entities is essentially to coordinate with the rest of the Public Administration. They are given a great deal of autonomy to make decisions, while obligated to maintain congruency with their institutional goals and the relevant Mexican norms.

The Federal Law on Parastatal Enterprises (*Ley Federal de Entidades Paraestatales*, or *LFEP*) is part of the body of law regulating investments made by *CFE*, because it provides that secretaries of state or administrative departments charged with coordinating specific industrial sectors—in this instance, SE—the responsibility of creating investment programs for their sectors, coordinate planning and budgeting in keeping with the broader governmental budgets and financing plans, and to disseminate the results of the parastatal entities.

Sectoral Programs and Financial Programs

This law states that parastatal entities like *CFE* are able to finance their activities with internal and external credits, coordinating the authorization and management of the credits according to the terms set out in Article 54 of the Law and any other applicable legislation.

The financial activities of *CFE* are subject to the following rules:

- ◆ They must conform to the general guidelines of *SHCP*.
- ◆ *CFE* must make the following things publicly accessible: its financial resources, its movement of capital and its acceptance of credit from financial institutions or any financial assistance that it may obtain from any company providing services or products.
- ◆ Criteria for implementation, including amounts, costs, implementation periods, guarantees and other supports in case support are conditioned on their provision.
- ◆ The Director of *CFE* submits the financial plan to the federal government for its authorization, and once it is approved, submits to *SHCP* the part of the financial plan that is necessary for the subscription of external credit.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.9. Law on Public Works and Related Services

Authority: *SECODAM*

Objective: This law regulates activities conducted by the decentralized entities, organizations and subsidiaries of the federal government regarding the planning, scheduling, budgeting, contracting, spending, execution and control of public works, as well as any services related to these activities.

Relevant Aspects from the Perspective of the Electric Sector

Contracting Procedures

Parastatal entities such as *CFE* are able to contract and implement public works and services related to their core activities under the following contractual conditions:

- Public bidding
- Restricted bidding with at least three contenders
- Direct award.

Public Bidding

Public bidding is the general method established by the Constitution (Article 134) for procurement and contracts carried out by the public administration.

Public bidding can be national or international: it will be national when only physical entities of Mexican nationality may participate; and it will be international when national entities as well as foreign entities may participate.

The law states that public bidding will only be international when an international treaty or agreement makes it obligatory to do so; when, through previous assessment of the market, it is demonstrated that local entities do not have the capacity to execute the necessary work; or when the cost of the planned project can be reduced with external credits granted to the federal government and it is necessary to conduct international public bidding to receive those credits.

CFE also has the authority to require that a certain percentage of material, machinery or equipment of Mexican origin be included in the work.

Presentation, Evaluation of Offers and Decisionmaking

The law compels public agencies and organizations to refrain from accepting proposals and from executing contracts with any legal entity that is impeded due to reasons expressed in Article 51 of the law, among which are underlined the following two instances: (a) when a public official or functionary who intervenes, in any

way, in the award of the contract has a personal, family or business interest that might benefit that public official, and (b) when any contractor has previously had a contract administratively annulled due to actions attributable to the contractor.

Contracting

Contracts resulting from an award must be formalized within 20 days starting from the day that the winner was notified of the ruling.

Public works contracts can be of three types:

- ◆ A fixed price contract projects the total cost for a particular project. Inflation and variations in the costs of materials are included in the price. The fixed price also includes overhead as well as profit.
- ◆ A unit price contract already includes the projected overhead and profit. These prices are applied to amount of work done, therefore fixing the final price.
- ◆ Mixed contracts contain a part of the work above the base unit price and the other part at a fixed price.

The rights and obligations derived from the contracts cannot be ceded partially or wholly to any other physical entity, with the exception of the rights to collect payment, in which case the consent of *CFE* is required.

The parties that sign a contract must guarantee the ability to make advance payments and compliance with the contract terms.

Exceptions to Public Bidding

The Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*, or *LOPSR*) permits a legal entity to be contracted for public works by a procedure of “restricted invitation,” in which at least three entities are invited, or by direct award in the following cases:

- ◆ When the contract can only be made with a particular person or entity because of works of art, title to a patent, ownership rights or other exclusive rights;
- ◆ When a natural disaster or force majeure endangers or alters the social order, economy, public services, health, security or environment of any region of the country, or if circumstances exist that could provoke significant additional costs or losses;
- ◆ When the projects are exclusively for military purposes and a guarantee is necessary to avoid compromising national security or confidential governmental information.

- ◆ When the contract has been rescinded due to actions taken by the entity that signed the contract;
- ◆ When two public bidding procedures have been declared unsuccessful.

Relevance to Projects that Fall under Projects of Long-term Execution Financed with Budgetary Resources (*Proyectos de Infraestructura Productiva a Larga Plazo, or PIDIREGAS*)

LOPSR only applies to the procedures for contracting and executing projects for long-term productive infrastructure.

Conflicts Resolution

Federal tribunal will resolve any controversy arising from the interpretation or application of *LOPSR*.

Controversies can only be legally resolved by *SECODAM*, considering the applicable regulations, the opinion of *SHCP*, and the opinion of *SE*.

However there may be instances in which decentralized organizations, *CFE* among them, can submit themselves to arbitration as a way to resolve controversies in lieu of the mechanism described in the previous paragraph.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.10. Law on Budgets, Accounting, and Federal Public Spending and General Law on Public Debt

Authority: *SHCP*

Objective: Both laws establish the general criteria and policies relative to the *PIDIREGAS* projects.

Relevant Aspects from the Perspective of the Electric Sector

General Characteristics of *PIDIREGAS*

Article 18 of the General Law on Public Debt and Article 30 of the Law on Budgets, Accounting, and Federal Public Spending are the ones that define the criteria and policies relative to *PIDIREGAS* projects.

The General Law on Public Debt, in Article 18, establishes the following:

Projects under the responsibility of the agencies of the federal government that require financing for their completion must furnish sufficient resources for the amortization of the project and for the obligations assumed for obtaining the financing. Consequently, the public entities that are promoting the project must have the capacity to pay for the total amount of the financing.

The agencies' capacity to pay the federal government is established as a function of the availability of funds in the budget for particular activities: for obligations derived from the financing of long-term, productive infrastructure projects—referred to as priority activities—which public entities acquire goods or services in any manner that are paid for with the revenue flows that the project itself generates, and that have the previous approval of the *SHCP* in the terms of Article 30 of the Law on Budgets, Accounting, and Federal Public Spending—only the total amount of financing to be paid during the activities of the current year and the following year will be considered—under the premises of the present law—as direct income, and the rest of the financing will be considered as contingent income until all financing obligations are completely paid for by the agencies.

Article 30 of the Law on Budgets, Accounting, and Federal Public Spending establishes the following:

In exceptional cases that are undoubtedly justified, *SHCP* can authorize contracts for public works, procurement or of any other nature that exceeds the budgetary funds approved for the year. However, in these cases the remaining obligations that are not paid for will remain subject (for the steadiness of its payment) to the availability of funds in subsequent years.

For projects included in the priority programs—which are referred to in the third paragraph of Article 18 of the Law on Budgets, Accounting, and Federal Public Spending—*SHCP* has approved consideration of whether or not the corresponding financing plan was the best possible, under the prevalent conditions, to be included in the subsequent expenditure budgets until the financing has been fully paid. The conditions considered in this analysis include the structure of the project, the revenue stream that it generates and the payment obligations of the financing.

Projects referred to in this article that correspond to programs of public entities whose budgets are included in the Expenditure Budget of the Federation (*Presupuesto de Egresos de la Federación*) will be brought to public attention upon the Federal Budget's presentation to the Chamber of Deputies.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.11. Regulations on Projects of Long-term Execution Finance with Budgetary Resources

Authority: *SHCP*

Objective: Regulate the budgetary practices of public agencies with the issuance of the Manual of Budgetary Norms for the Federal Public Administration.

Relevant Aspects from the Perspective of the Electric Sector

This manual establishes the administrative provisions that the agencies and entities of the Federal Public Administration must observe, including *CFE*.

It also includes, in Chapter VII, provisions relative to Long-term Productive Infrastructure Projects, that add to the generic framework established in Article 18 of the General Law of Public Debt and the second paragraph of Article 30 of the Budget, Accounting and Public Spending Law.

The following items are detailed in the manual:

- ◆ The characteristics that a project must have to be authorized.
- ◆ The manner in which new projects are included in the Expenditure Budget.
- ◆ The authorizations and legal opinions that must be taken into account before the inclusion of a project in the Expenditure Budget.
- ◆ The procedures that must be carried out in case there are any variations in the approved projects before the publication of the corresponding call for proposals.
- ◆ The manner in which the liabilities of approved projects should be registered.
- ◆ The information that must be afforded to the various agencies of the Public Administration to maintain strict control over the projects.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.12. Law on Procurement, Leasing, and Public Sector Services

Authority: *SECODAM*

Objective: The objective of this law is to regulate the planning, programming, budgeting, contracting, spending and control of the procurement and leasing of goods, as well as the provision of services of any nature.

Relevant Aspects from the Perspective of the Electric Sector

Contracting Procedures

Government agencies and entities under the auspices of this law, including *CFE*, can contract services or procure or lease goods through the following procedures:

- Public bidding
- Restricted bidding with at least three contenders
- Direct award.

Resolution of Conflicts

Federal tribunal will resolve any controversy arising from the interpretation or application of the Law.

Controversies can only be legally resolved by *SECODAM*, considering the applicable regulations, the opinion of *SHCP*, and the opinion of *SE*.

However, with regard to the previous paragraph, there may be instances in which decentralized organizations, *CFE* among them, can submit themselves to arbitration as a way to resolve controversies in lieu of the mechanism described in the previous paragraph.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.13. Organic Law of the Federal Public Administration

Authority: *SECODAM*

Objective: This law establishes the organizational form of the Federal Republic Administration, both centralized and parastatal.

Relevant Aspects from the Perspective of the Electric Sector

Coverage of *CFE*

This law applies to the electric sector because *CFE* is a decentralized, public organization of the federal government.

The law, in Article 45, defines decentralized, public organization as entities either created by Congressional law or decree, or by Executive decree, with legal person-

ality and its own capital resources, whatever may be the legal structure that the entity adopts.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.14. General Law on Mercantile Corporations

Authority: Not Applicable

Objective: The objective of this law is to regulate the formation, function, administration, dissolution, liquidation, registration of mercantile corporations and any other relevant characteristics.

Relevant Aspects from the Perspective of the Electric Sector

Types of Companies

- ◆ Stock Company (*Sociedad Anónima*)
- ◆ Limited Liability Company (*Sociedad de Responsabilidad Limitada*)
- ◆ Limited Partnership (*Sociedad en Comandita Simple*)
- ◆ Joint-stock Association (*Sociedad en Comandita por Acciones*)
- ◆ Cooperative (*Sociedad Cooperativa*)

Stock Company

The stock company is composed exclusively of partners whose liability is limited to the payment of their actions. The name of the company can be chosen freely; however the name must be different than that of any other previously formed company. The abbreviation for stock company is S.A. (*sociedad anónima*).

To establish a stock company in Mexico requires the following:

- ◆ A minimum of two partners, and each partner must own at least one share of the company.
- ◆ A minimum corporate capital of fifty thousand pesos.
- ◆ Proof of at least 20 percent of the value of each share in cash.
- ◆ Proof that the remaining value of each share can be derived from the value of other assets owned by the company besides cash.

The shares into which the equity of the stock company is divided are represented by titles (shares), which will serve as proof of and a vehicle for the transmission of the rights as shareholder, and will be regulated according to the regulations governing negotiable financial instruments to the appropriate extent.

The general shareholders' meeting is the highest authority of the company. At the general shareholders' meetings all decisions regarding the various issues of the company will be rendered. Management of the stock company is under one or more temporary executives, who may or may not be shareholders of the company. When there are two or more executives, an executive counsel is formed.

Stock companies will also have various members of the board (commissioners), whose terms are temporary and revocable, and who may or may not be shareholders of the company.

Limited Liability Company

The limited liability company is constituted by and among partners that are only obligated to pay their shares, without being represented by negotiable instruments issued to the bearer, for they may only be ceded to others in the circumstances and in keeping with the requirements established by law.

Limited liability companies are given a denomination or trade name of one or more of its partners. The abbreviation for a limited liability company is S.de R.L. (*sociedad de responsabilidad limitada*). A limited liability company may not have more than 50 partners.

The capital stock of the company cannot ever be less than three thousand pesos, and can be divided among partners in unequal proportions. Generally, each partner's share is indivisible, however, the right to divide or partially cede shares can be incorporated into the company charter.

The general shareholders' meeting is the highest authority of the company. At the general shareholders' meetings all decisions regarding the various issues of the company will be made. Management of the stock company is under one or more temporary executives, who may or may not be shareholders of the company. When there are two or more executives, an executive counsel is formed.

Variable Capital Company

The various types of companies can, at the same time, become variable capital companies. Variable capital companies can increase the amount of capital stock for the purpose of admitting new shareholders or allotting extra capital stock to existing shareholders, or they can diminish the amount of capital stock to wholly or partially retire shares.

Variable capital companies remain registered as the type of company they are (limited liability, stock company, etc.). The company charter must establish the conditions under which the amount of capital stock is either augmented or diminished.

The denomination or trade name of the company must end with the words “de capital variable,” (of variable capital).

Joint Venture

A joint venture is a contract in which a company or person that furnishes goods or services to a mercantile corporation is given a share in the profits and losses of the mercantile corporation, or of one or various commercial operations of the mercantile corporation.

A joint venture is not a legal entity nor does it have a trade name or denomination, therefore the obligations are assumed by the associates. An associate acts under its own name, and the mercantile corporation does not have any legal relations with third parties or partners of the associate.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.15. Law on Foreign Investments

Authority: *SE*

Objective: To regulate foreign investment in Mexico.

Relevant Aspects from the Perspective of the Electric Sector

Applicability to the Electric Sector

This law applies to the electricity sector as it determines activities reserved to the state and activities with specific regulations.

In the regulations of this law, small production, cogeneration, self-supply, independent production, importing of energy for self-use and exporting of excess energy are not considered activities reserved to the state. Therefore, these activities are open to foreign participation.

General Resolution No. 5, which establishes the rules of participation for foreign investment in the electric energy sector that are not considered a public service, states that foreign investors may have a participation of up to 100 percent.

When foreign investment exceeds 49 percent of the total, it is necessary to have the approval of the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras*).

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.16. Commercial Code

Authority: Not Applicable

Objective: The objective of the Commercial Code is to regulate all acts of commerce that occur in the Republic of Mexico, as well as mercantile contracts in general. It also establishes the provisions for mercantile judgments and commercial arbitration.

Relevant Aspects from the Perspective of the Electric Sector

The Commercial Code applies to the electricity sector because the majority of electric energy contracts that are signed state within the document that the contract is being executed for commercial ends.

It is important to consider that the provisions of the Commercial Code may be applied to agreements and contracts that have to do with principal electric energy contracts as well as accessory or complementary contracts; for example, the potential application of the Commercial Code by expressed mandate of the mercantile laws.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.17. General Law on Securities and Credit Operations

Authority: Not Applicable

Objective: To regulate the various types of credit mechanisms.

Relevant Aspects from the Perspective of the Electric Sector

Definition of Financial Instruments

Bills of exchange, promissory notes, checks, liabilities, participation certificates, deposit certificates and note issues against property; as well as the various types of credit operations which are: repurchase agreements, trust agreements, booked credit discounts, credit, pledge agreement and trusts.

Trusts, Objectives and Form

A trustor designates certain assets to be entrusted to a fiduciary institution. Any sort of title or asset may be the object of a trust, except those, according to the law, that are strictly personal to one owner.

The charter of the trust must always be written to have legal standing. The charter will be adjusted according to changes in common legislation regarding trusts.

Roles of the Trust, the Trustees, the Trustors and the Fiduciary Institutions

Legal entities that have the necessary capacity to receive the profit implied in the trust may be trustees. A trust can be legally valid without naming any trustees.

The following entities can be trustors: legal entities that have the requisite capacity to offer the goods that the trust implies, or judicial authorities and competent managers. Only institutions that are authorized according to the General Law of Credit Institutions (*Ley General de Instituciones de Crédito*) may be fiduciaries of a trust.

Guarantee Trust (Published in the DOF on May 23, 2000)

In a guarantee trust, the trustor hands over ownership of certain assets to the fiduciary institution with the objective of guaranteeing to the trustee the completion of an obligation and the trustee's preferred method of payment.

The acting fiduciary institution must be designated when the charter of the guaranteed trust is drafted.

The trustor can designate two or more trustees, stipulating the order of priority between them or, if appropriate, the percentage of the assets from the trust that correspond to each trustee.

A single guarantee trust can be used to guarantee simultaneously or successively various obligations that the trustor has entered into with various creditors.

The following legal entities may act as fiduciaries of guarantee trusts:

- ◆ Credit institutions
- ◆ Insurance companies
- ◆ Financial institutions
- ◆ Limited financial companies
- ◆ General depositories.

These institutions will be liable for any acts they commit that may harm the trustors.

Any sort of title or asset may be the object of a guaranteed trust. The titles and assets of a trust will be property of the fiduciary institution and are considered collateral in order to guarantee that the trustor will fulfill its obligations.

Guarantee Trust

The charter of a guarantee trust must be drafted in written form and publicly accessible. When part of the trust consists of unfixed assets, and the amount is equal to or more than the equivalent of \$250,000 Pesos, the parties must ratify their signatures in front of a public witness. The guarantee goes into effect immediately after both parties sign the contract.

Creditors that have been guaranteed shares of the guarantee trust lose their right to claim those shares if 3 years have passed since the time they could have laid claim to those shares. In this case the trust expires, and the assets of the guarantee are returned to the trustor. Fiduciary institutions must indemnify the trustor for any act that may harm the trustor.

The parties must stipulate in the contract for the guarantee trust that in case the sale of the asset that is the object of the guarantee trust does not cover the total cost of the debtor's liabilities to the creditor(s), the debtor is free from any liability to cover the difference (the creditor loses the right to demand the shortfall).

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.18. Monetary Law of the United Mexican States

Authority: Not Applicable

Objective: The main purpose of this Law, is to establish the prevailing legal currency in Mexico, how to fulfill obligations contracted in national currency or foreign currency and the characteristics and equivalencies of Mexican bills and coins.

Relevant Aspects from the Perspective of the Electric Sector

Legal Tender

The official Mexican currency is the Peso.

Payment Obligations of Loans Obtained in Foreign Currency

Foreign currency cannot be legally used in Mexico.

Payment obligations in foreign currency originating from both inside and outside of Mexican territory, will be settled by delivering the equivalent of the monetary obligation in national currency, at the exchange rate that prevails in the location and time where payments are made. The exchange rate will be based on the determinations of the Banco de Mexico.

Payments in foreign currency originating from transfers of funds from outside of Mexico that are processed through the Banco de Mexico or other credit institutions, must be fulfilled by delivering the said amount in units of the actual foreign currency; this without breaking any obligations that are imposed by currency control.

Payment obligations originating from irregular bank deposits that are in foreign currency, will be settled by delivering the equivalent in local currency, at the exchange rate of the place and time when payment is made, unless the debtor had promised to pay in foreign currency. This form of transaction can be made only with full the authorization and agreement of the banking authorities, through general rules to be published in the *DOF*; this without breaking any obligations that are imposed by currency control.

The previous stipulations cannot be waived.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.19. Federal Law on Economic Competition

Authority: *SE*, Federal Competition Commission (*Comisión Federal de Competencia*, or *CFC*)

Objective: This regulatory law of constitutional Article 28 deals with economic competition, monopolies, and free competition.

In general terms, the Federal Law on Economic Competition (*Ley Federal de Competencia Económica*, or *LFCE*) prohibits state monopolies, as well as practices that diminish, harm or prevent free competition in the production, process, distribution, and commercialization of goods and services.

Relevant Aspects from the Perspective of the Electric Sector

Scope of Applications

All economic agents are subject to this law, such as all moral and physical persons, dependencies, or entities of the federal, state and municipal public administrations,

associations, professional groups, trusts, or any other entity that participates in economic activities.

This law follows the principles of the Constitution and clarifies that exclusive state functions in strategic areas, referred under Paragraph 4 of Article 28 of the Political Constitution, are not considered monopolies.

The agency in charge of the application of this law is the *CFC*, which is a decentralized administrative agency that is part of the Secretariat of Commerce and Industrial Development. It has operative and technical autonomy and is in charge of, investigating and fighting monopolies, monopoly practices and cartels.

CFC also enjoys autonomy in dictating its resolutions.

Mergers

The law establishes that a merger is understood to be the amalgamation, acquisition of control or any activity through which companies, associations, stock, partnerships, trusts come together or any activity that is carried out between competitors, providers, clients or any other economic agents. *CFC* will contest and fine those mergers whose objective or effect is to reduce, damage or impede free competition with respect to goods and services that are equal in nature or similar in nature.

CFC should be notified before undertaking a merger in which the transaction, in a single act or in a succession of actions, amounts to 12 million times or more the current minimum wage in the federal district of Mexico City.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.20. General Law on Ecological Equilibrium and Environmental Protection

Authority: Secretariat of the Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*, or *SEMARNAT*)

Objective: The main objectives of the General Law on Ecological Equilibrium and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*, or *LGEEPA*) are to encourage sustainable development and to define the principles of environmental politics in Mexico, and the policy instruments for its application; to preserve and protect biodiversity, including the creation of protected areas; to promote the sustainable use, preservation and restoration of land, water and other natural resources; and to control pollution in all three media (air, water and land).

Relevant Aspects from the Perspective of the Electric Sector

Evaluation of Environmental Impacts

The evaluation of environmental impacts is the procedure through which *SEMARNAT* establishes the conditions to which all works and activities are bound that may cause environmental damage or exceed the limits and conditions established to protect and preserve ecosystems. This applies to anybody that intends to carry out any of the activities mentioned in *LGEEPA*, such as hydraulic works, communication lines, oil pipelines, gas pipelines, and works in the oil and electric sector.

As part of this legal order, it is necessary to carry out the evaluation of the environmental impact of the activities related to the construction, operation and works of electricity infrastructure.

To obtain authorization with regard to environmental impacts, interested parties should present to *SEMARNAT* an environmental impact statement, which should contain, at a minimum, a description of the possible effects on ecosystems by the works or activities being considered, taking into account the elements that are part of the ecosystems. It must also include a description of the preventive measures, mitigation measures and other measures to avoid or reduce any negative effects on the environment.

When it deals with activities that are considered highly risky according to the terms set out in the *LGEEPA*, the impact statement should include the risk study.

If after the presentation of the environmental impact statement modifications are done to the project or respective activity, the interested parties should notify *SEMARNAT*, in a period of no more than 10 days. The Secretariat shall notify the presenter of the impact statement if it is necessary to provide additional information to evaluate the effects on the environment the modifications could cause.

Official Mexican Norms as Regards Environmental Impacts

SEMARNAT promulgates official Mexican norms with regard to the environment to advance the sustainable use of natural resources. The objective of these norms is to establish requirements, specifications, conditions, procedures, goals, parameters, and permissible limits that must be observed to benefit from the use of natural resources with regard to economic activities, the use and purpose of goods, industrial inputs and industrial processes.

The publication and modification of official Mexican norms with regard to the environment are subject to the procedures established in the Federal Law on Metrology and Standards (*Ley Federal sobre Metrología y Normalización*). It is mandatory to comply with these laws.

Official Mexican Norm (NOM)-085-ECOL-1994

This official Mexican norm establishes the maximum levels of atmospheric emissions of smoke, particulates, sulfur dioxide, and nitrogen oxide that come from stationary combustion equipment utilizing solid, liquid or gaseous fuel.

The companion handbook on Environmental Permitting for Generation and Transmission Projects in Mexico addresses issues related to environmental regulations and permitting in greater detail.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.21. North American Free Trade Agreement (Tratado de Libre Comercio de Norteamérica)

Authority: *SE* and Secretariat of Foreign Relations

Objective: To eliminate commercial obstacles and facilitate the free trade of goods and services between the United States, Canada and Mexico; to promote competitive conditions in the free trade zone; to substantially increase the opportunities for investment in the countries that are signatories to the Treaty; to promote the value of intellectual property rights; to establish guidelines for increased trilateral cooperation.

Relevant Aspects from the Perspective of the Electric Sector

Energy and Basic Petrochemicals

The Treaty maintains that a company from the United States or Canada can acquire, establish or operate an electricity generation plant in Mexico for cogeneration, self-supply or for the independent production of electricity.

Companies incorporated in the United States or Canada can obtain permits for the independent production of energy without the necessity of being legal entities formed under Mexican law, as is demanded in the Law of the Public Service of Electric Energy and its Regulations.

An independent production power plant located in Mexico can negotiate the terms and conditions of exporting part or all of the electric energy that it generates for a company in the United States or Canada. The framework of the supply contract is decided by the end-users, the electric energy suppliers, and *CFE*, and may take the form of individual contracts between *CFE* and each of the other parties.

Public Sector Purchases

The Treaty maintains that each of the signatories must ensure that the procurement procedures of their own public sector entities are not discriminatory, and are equally open to bidders from any of the three signatory nations. In order to avoid discrimination of suppliers, the Treaty maintains rules on the qualification of suppliers.

The Treaty also establishes provisions for bidding procedures, calls for proposals, selective bidding, time limits for bidding and the delivery of proposals, bidding rules, negotiating rules, reception and opening of proposals, awarding of contracts, and restricted invitation bids with the purpose of:

- ◆ Establishing guidelines that ensure the transparency of the bids.
- ◆ Ensuring that the products and services, as well as the suppliers of those products and services, receive treatment in the other signatory countries that is at least as favorable as the treatment they would receive in their own country.
- ◆ Avoiding discrimination to providers of goods and services of the other countries.

North American Agreement on Environmental Cooperation

This agreement was signed by the United States, Canada and Mexico, in conjunction with NAFTA. Its objective is to help protect and improve the environment in the territory of the signatories; promote sustainable development and mutual assistance in environmental policy; support the environmental goals and objectives of NAFTA; promote effective and economically efficient environmental measures; and promote environmental policy and practice.

By virtue of this agreement, each of the parties guarantees that their laws and regulations provide high levels of environmental protection and that they will put forth their best effort to improve those laws and regulations.

The Agreement included the creating of the Council for Environmental Collaboration, which will be under the auspices of the Secretary of State. The Council itself will establish its own rules and regulations.

The Council has the following four principal functions:

- ◆ Serve as a forum for discussing environmental issues contained in the agreement.
- ◆ Supervise the application of the agreement and provide recommendations about its future development.
- ◆ Deal with questions and controversies that may arise between the parties about the interpretation or application of the agreement.
- ◆ Promote and facilitate cooperation between the parties with regard to environmental issues.

North American Agreement on Labor Cooperation

This agreement was signed by the United States, Canada and Mexico, and has the following objectives:

- ◆ Improve the working conditions and quality of life in the territory of each of the parties
- ◆ Promote high labor standards and principles
- ◆ Stimulate cooperation to promote innovation, such as productivity levels and improved quality
- ◆ Assist in the publication and exchange of information, and the development and coordination of statistics, such as joint studies to promote the mutual understanding of the laws and institutions dealing with labor issues in each of the signatory countries
- ◆ Promote the observance and effective application of labor legislation in each of the signatory countries
- ◆ Promote transparency in the administration of labor legislation.

The agreement maintains that the parties must ensure that the laws of their own nation respect the following labor principles:

- ◆ Freedom of association and the right to organize
- ◆ The right to collective bargaining
- ◆ Prohibition of forced labor
- ◆ Restrictions over the employment of child labor
- ◆ Minimum working conditions
- ◆ Elimination of discrimination in the workplace
- ◆ Equal salary for women and men
- ◆ Prevention of occupational injuries
- ◆ Indemnification in the cases when occupational injuries occur
- ◆ Protection for migratory workers.

The agreement includes the creation of the Labor Cooperation Commission.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.22. Agrarian Law

Authority: Not Applicable

Objective: This law is derived from Article 27 of the Constitution. Its objective is to establish the applicable regulations for communal land, small individual property, the National Agrarian Register (*Registro Agrario Nacional*), the Attorney General for Agrarian Matters (*Procuraduría Nacional*), as well as the guidelines relative to judgments tribunals in the agrarian sector.

Relevant Aspects from the Perspective of the Electric Sector

Communal Lands and Their Operation

CFE and private companies must frequently utilize rights of way through property considered communal land. Communes are legal entities that retain ownership over the land that has been given to them or that they have acquired through any other legal title. The *ejidos* (common lands) operate in accordance with their internal regulations, without further limitations on their activities.

Communal Shareholders and Residents of Communal Land

A communal shareholder is a person that has communal rights and is given the right to use and benefit from the land by his or her people that have the overall communal rights to the land.

The residents of a commune are all Mexicans of adult age that have resided for at least one year on the land of the communal population.

To be a communal shareholder one must be a resident of the commune and a Mexican citizen.

Entities of the Commune and their Functions

The bodies of the commune are the following: the Assembly, the Communal Commission and the Vigilance Council.

The Assembly is the highest authority of the commune, and its principal functions are the following:

- ◆ Formulation and approval of the communal regulations
- ◆ Acceptance of communal shareholders
- ◆ Election and dismissal of the members that make up the Communal Commission and the Watchdog Council

- ◆ Approval of the contracts and agreement with third parties that will use and benefit from the communal land
- ◆ Division of the commune after its merger with another commune
- ◆ Termination of the commune's legal status.

The Communal Commission has the following principal activities:

- ◆ Execute the agreements of the Assembly
- ◆ Manage the assets of the commune
- ◆ Ensure the rights of the communal shareholders
- ◆ Call meetings of the Assembly.

The Vigilance Council has the following principal functions:

- ◆ Monitor the actions of the Commission
- ◆ Review the accounts and operations of the Commission
- ◆ Call meetings of the Assembly.

Communal Lands

Communal lands are those that have been given to a communal population or incorporated in a communal regime. Therefore they are subject to the guidelines of the Agrarian Law. Communal lands are divided according to their purpose: township lands, land for common usage and land divided into parcels.

*Ejid*os may be the subjects of any association or exploitation contract.

Attorney General for Agrarian Matters

The Attorney General for Agrarian Matters is a decentralized organization of the Federal Public Administration. It is a legal entity with its own capital resources, located in the Secretariat of Agrarian Reform (*Secretaría de Reforma Agraria*).

It is a social service agency that is in charge of defending the rights of communal shareholders, communal lands, communities, small property owners, residents of these lands and migratory workers in the agriculture sector.

Internet address of complete text:

http://www.cec.org/pubs_info_resources/law_treat_agree/index.cfm

D.1.23. Overview or Relevant State and Municipal Legislation

Authority: State and Municipal Governments

Objective: Various

Relevant Aspects from the Perspective of the Electric Sector

Coverage of Activities and Installations Relevant to the Electric Sector

Activities involving generation, transmission, transformation, distribution, commercialization or selling of electric power, as well as the construction and operation of generation plants, transmission lines, electric substations, and auxiliary installations, are regulated by federal laws, such as: the Electric Energy Public Service Law, the Regulations of the Law of Public Service of Electric Energy, the Regulations of Wheeling to the Electric System and the Law of Public Works and Related Services Laws.

Federal laws regulate contracts drafted for the purpose of any of the activities in the above paragraph. State and municipal laws and dispositions don't have provisions that regulate the subject matter related to these laws and regulations and, therefore, are not applicable to any activity or contract that deals with electric power.

Nevertheless, state or municipal laws can regulate the contracts and agreements whose objectives are to carry out the necessary activities for the development of projects and contracts regarding electricity, as can applicable provisions for obtaining rights for property, sites and permits.

To obtain property rights and the sites where generation plants, installations, transmission lines, and electric substations will be built, it is necessary to sign a purchase agreement, a real estate contract, a leasing contract, an imminent domain contract, among other contracts and agreements, which are regulated by the civil code of the corresponding states.

Likewise, to be able to build or operate electric installations, there are permits that must be obtained from state or municipal authorities. The functions of state or municipal authorities, as well as the requirements that must be satisfied in order to get a permit, are subject to state or municipal regulations, laws and other provisions.

The applicable provisions with regard to permits are the laws and regulations concerning environmental protection, human settlement, urban development, construction, the use of soil, construction licenses, health, the opening of industrial installations, environmental permits, among others.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.24. Prospective for the Electric Sector

Authority: *SENER*

Objective: This document contains an analysis conducted by *CFE* about the necessities of the country with regard to electric energy for the next 10 years and the measures that should be implemented to satisfy that need.

Its principal objectives are as follows:

- ◆ Support the rapid and efficient expansion of the sector and increase the efficient use of raw materials.
- ◆ Stimulate key investments for long-term growth of the sector.
- ◆ Strengthen and improve the decentralized public entities.

Relevant Aspects from the Perspective of the Electric Sector

Contents of the Documento de Prospectiva

The document contains basic information split into five major themes:

1. Legal Framework of the Electric Industry—This section presents an overview of the policies and the legal framework of the electric industry.
2. Evolution of the Demand for Electricity, 1990–1999—This section analyzes end-users by sector and region. It also assesses total demand for electricity in the country and the energy efficiency efforts of the country.
3. Analysis of Electricity Supply—This section presents a study of the electric system: the principle central generators, the capacity of the transmission system, and a count of the permits granted to private companies for electricity generation.
4. Expected Evolution of the Demand for Electricity—This section shows the projection of future electric energy demand, total sales, sales by sector, as well as peak, intermediate and base demand. It also shows the programs recommended by the National Commission for the Conservation of Energy (*Comisión Nacional para el Ahorro de Energía*) for the efficient use of energy on the demand side.
5. Prospective of Electricity Supply 1999–2008—This section lists the additional capacity needed to satisfy expected future demand and its geographic location, also considering how the producers can use part of the additional capac-

ity for their own benefit or for the sale of electric energy to *CFE* or *LyFC*. It also compares the technical expansion options for the National Electric System analyzed by *CFE* and proposes the ensuing actions for the next 10 years to increase the efficiency of generating electricity and the greater utilization of renewable energy.

Internet address of complete text:

<http://info.juridicas.unam.mx/infjur/leg/>

<http://www.secodam.gob.mx/leyes/index.html>

D.1.25. Forestry Law

Authority: *SEMARNAT*

Objective: Regulate and promote the conservation, protection, restoration, and utilization of the country's forest resources to promote sustainable development.

Relevant Aspects from the Perspective of the Electric Sector

Article 6

SEMARNAT will create Regional Councils to permit consultations with stakeholders in issues related to forest management.

Article 9

SEMARNAT will establish a National Forest Inventory that will include data on forest cover, trends in forest exploitation and land use patterns, and the quantification of forest resources as well as their valuation, along with other information as established in the rulemaking for the law. The inventory will also contain the permits issued for changes in use of forested areas.

Article 19

SEMARNAT may consult with the Regional Councils on specific issues related to the authorization of applications for land use change and other forest management issues. *SEMARNAT* may only authorize land use changes, with exceptions, if it can be shown that the proposed project will preserve biodiversity, protect soil from erosion, preserve water quality, and ensure maximum recovery of water resources (prevent excessive run-off).

Article 32

The Executive Branch may declare certain forest areas off limits to utilization or land-use change (a forest preserve or *veda forestal*) where justified by studies performed by *SEMARNAT* with prior consultation with the Forest Councils, *ejidatarios*,

communities and other owners or holders of forest lands.

Internet address of complete text:

http://www.SEMARNAT.gob.mx/legislacion_ambiental/federal/forestal.shtml

D.1.26. Federal Law on Fees

Authority: Various, depending on the relevant type of fee. Fees may be collected by *CNA* in the case of water and wastewater, but also *SEMARNAT*.

Objective: Establish the fees associated with the use of public goods, as well as services provided by public agencies with respect to public law—with the exception of services provided by parastatal companies.

Relevant Aspects from the Perspective of the Electric Sector

Article 192

Establishes the types of services provided by *CNA* for which fees are payable.

Article 223

Establishes the fee payable per cubic meter of water from subsurface sources as well as from surface water.

Article 224

Exempts users from paying for water used under specific instances, such as when wastewater is used in lieu of water from another source.

Article 231

Establishes the different geographic zones in which differentiated fees are applicable.

Internet address of complete text:

<http://sgaa.CNA.gob.mx/>

D.1.27. Implementing Legislation for the Forestry Law

Authority: *SEMARNAT*

Objective: Implement the Forestry Law and regulate and promote the conservation, protection, restoration, and utilization of the country's forest resources to promote sustainable development.

Relevant Aspects from the Perspective of the Electric Sector

Article 52

Establishes the requirements for a permit application for a change in land use of a forested area: these include (1) basic information on the applicant; (2) documentation showing ownership of the land in question; (3) Technical Justification Study (*Estudio Técnico-Justificativo*, or *ETJ*); and (4) Environmental Impact Statement (*Manifiestación del Impacto Ambiental*, or *MIA*) or the permit issued for it.

Article 53

Establishes the requirements for an *ETJ*. These include, among other items: objectives of the project; description of the physical and biological aspects of the watershed where the property is located, as well as its current condition; conservation and preservation measures for flora and fauna; classification of territory in accordance with the zoning system established in Article 13; the technical justification that *SEMARNAT* should consider before issuing a land use change permit.

Article 54

Establishes the maximum periods of time allotted for *SEMARNAT* to process and respond to applications.

Article 56

Establishes the requirements for applications for permits to transfer ownership or rights of use for forested areas.

Internet address of complete text:

http://www.SEMARNAT.gob.mx/legislacion_ambiental/reglamentos/forestal.shtml

D.1.28. Rulemaking Related to the General Law on Ecological Equilibrium and Environmental Protection

Authority: *SEMARNAT*

Objective: This rulemaking implements the legislation set forth under the General Law on Ecological Equilibrium and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*, or *LGEEPA*).

Relevant Aspects from the Perspective of the Electric Sector

Article 5

Establishes the types of projects that are required to submit an *MIA* for approval by *SEMARNAT*. These include electric sector projects of the following types: (1) generation stations of all types, larger than 500 kW in capacity; (2) substations for transmission or distribution; (3) transmission and distribution lines; and (4) generation and self-supply stations larger than 3 MW.

Article 29

Establishes that a Preventative Notice (*Informe Preventivo*, or *IP*) need not be filed for projects involving activities for which *NOMs* have been established, projects explicitly contemplated in an urban development or zoning plan for which an *MIA* has been approved, or projects located within industrial parks that have approved *MIAs*.

Article 33

Based on the review of the *IP*, *SEMARNAT* may require the project promoter to present an *MIA*, or may authorize the project to proceed without one.

Article 40

Establishes that *SEMARNAT* may, at the request of any interested party, hold a public hearing on any project for which an *MIA* has been presented for authorization.

Article 46

Establishes the timetables for the review and decision on the *MIAs* submitted for review by *SEMARNAT*.

Internet address of complete text:

<http://www.ine.gob.mx/dgra/reglamentos/iamb/reglamentoia.html>

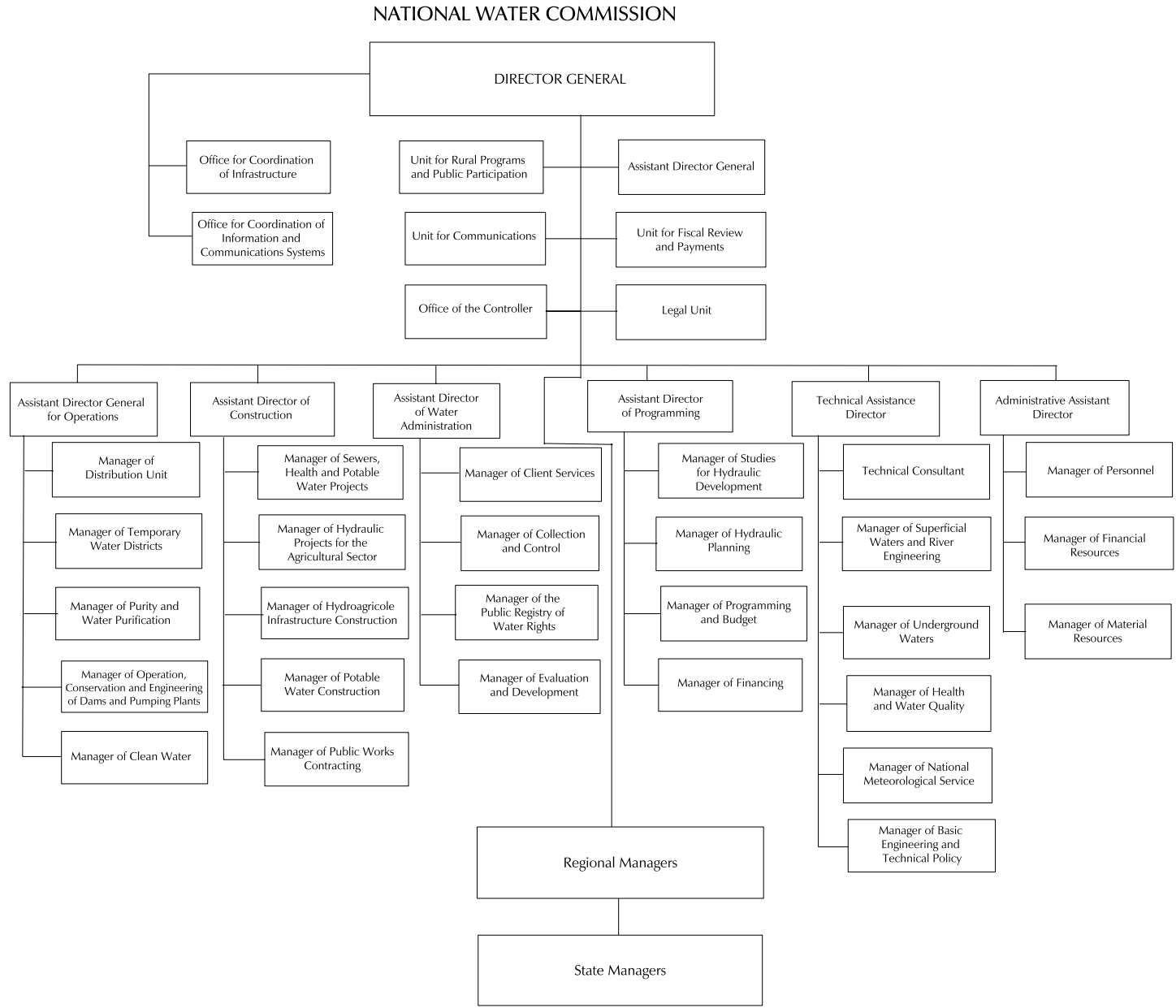
Table 8: Matrix of Laws and Relevance to Project Types

Laws	Accessory		Administrative			Operation Permits		PIDIREGAS
	Prop.	Fuel	Companies	Fiscal/soc	CFE	Env.	SE	
Political Constitution of the United States of Mexico	✓	✓	✓	✓	✓	✓	✓	✓
Law on Public Service of Electric Energy					✓			✓
Regulations of the LSPEE					✓			✓
Regulations on the Law of Public Service Regarding Contributions					✓			
Regulations on Natural Gas		✓		✓				
Law on the Energy Regulatory Commission (CRE)					✓			
Regulations on the Dispatch and Operation of the SEN					✓			
Federal Law on Parastatal Entities					✓			
Law on Public Works and Related Services			✓	✓	✓			
Manual of Budgetary Norms for the Federal Public Administration (PIDIREGAS)				✓	✓			✓
Law on Budgets, Accounting and Federal Public Spending				✓	✓			✓
Law on Procurement, Leasing and Services of the Public Sector			✓	✓	✓			✓
General Law on Public Debt					✓			
Organic Law of Federal Public Administration					✓			
General Law on Mercantile Companies			✓	✓			✓	
Law on Foreign Investment	✓		✓	✓			✓	
Commercial Code	✓		✓					
General Law on Titles and Credit Operations			✓					
Monetary Law of the United States of Mexico			✓	✓				
Federal Competition Law			✓	✓				
Agrarian Law	✓		✓					
General Law of Ecological Equilibrium and Environmental Protection	✓		✓		✓	✓		
North American Free Trade Agreement	✓		✓	✓				
State and Municipal Legislation	✓	✓	✓	✓		✓		
Forestry Law	✓		✓			✓		
Federal on Fees			✓		✓			
Implementing Legislation for the Forestry Law	✓		✓		✓	✓		
Rulemaking Related to the LGEEPA on Env. Impact	✓		✓		✓	✓		

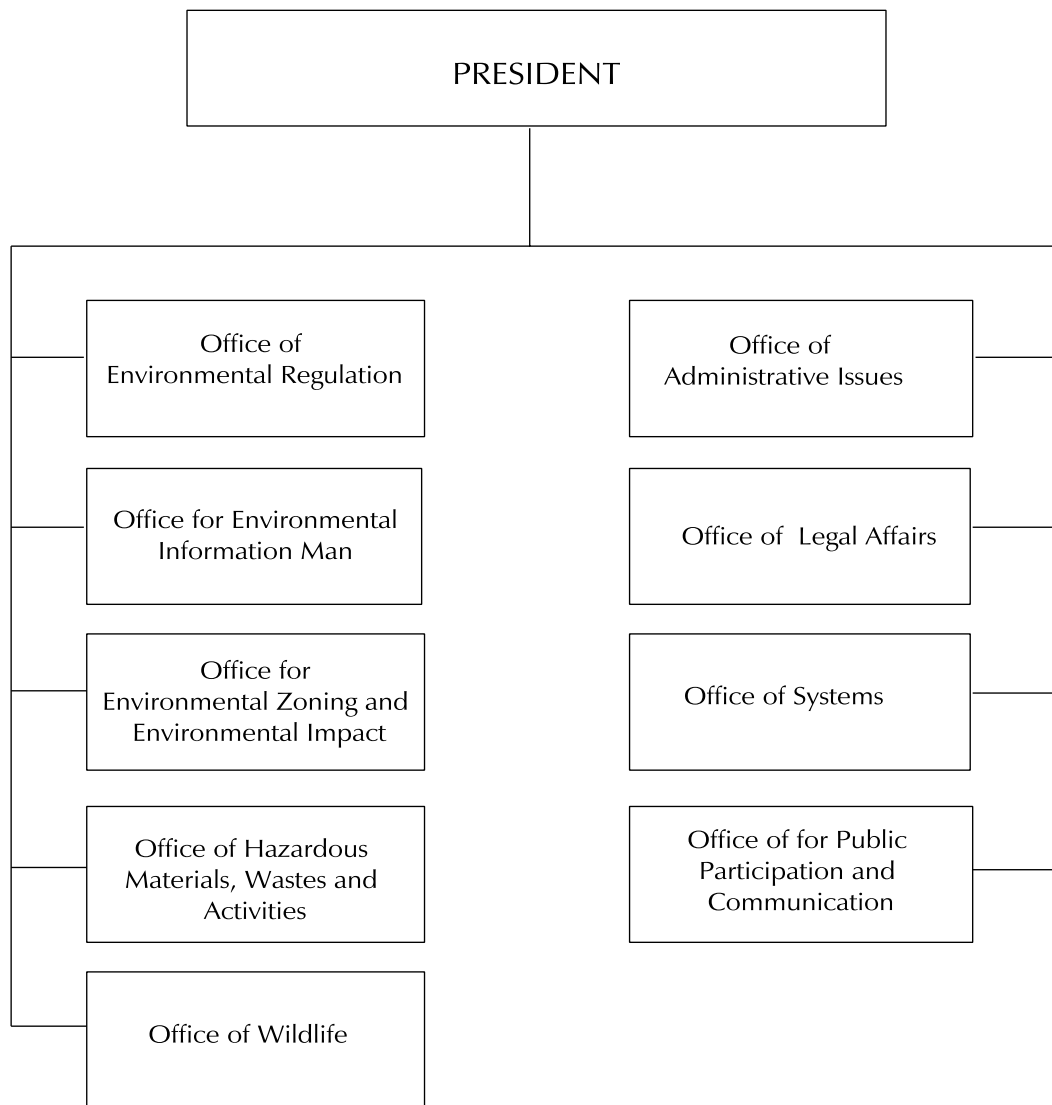
Table 8: Matrix of Laws and Relevance to Project Types (continued)

Laws	CRE Permit Types					Contracts							
	Pi	Ss	C	Ps	I/E	PPA	PFW	BLT	BOOT	Int	Back-up	Ee	Transm
Political Constitution of the United States of Mexico						✓	✓	✓	✓				
Law on Public Service of Electric Energy	✓	✓	✓	✓	✓	✓				✓	✓	✓	✓
Regulations of the LSPEE	✓	✓	✓	✓	✓	✓				✓	✓	✓	✓
Regulations of the LSPEE Regarding Contributions						✓							
Regulations on Natural Gas													
Law on the Energy Regulatory Commission (CRE)	✓	✓	✓	✓	✓					✓	✓	✓	✓
Regulations on the Dispatch and Operation of the SEN													
Federal Law on Parastatal Entities													
Law on Public Works and Related Services							✓						
Manual of Budgetary Norms for the Federal Public Administration (PIDIREGAS)													
Law on Budgets, Accounting and Federal Public Spending													
Law on Procurement, Leasing and Services of the Public Sector											✓		
General Law on Public Debt													
Organic Law of Federal Public Administration													
General Law on Mercantile Companies													
Law on Foreign Investment													
Commercial Code													
General Law on Titles and Credit Operations													
Monetary Law of the United States of Mexico							✓	✓	✓				
Federal Competition Law													
Agrarian Law													
General Law of Ecological Equilibrium and Environmental Protection													
North American Free Trade Agreement							✓	✓	✓				
State and Municipal Legislation													
Forestry Law					✓								
Federal Law on Fees	✓	✓	✓	✓	✓								
Implementing Legislation for the Forestry Law					✓								
Rulemaking Related to the LGEEPA on Env. Impact	✓	✓	✓	✓	✓								

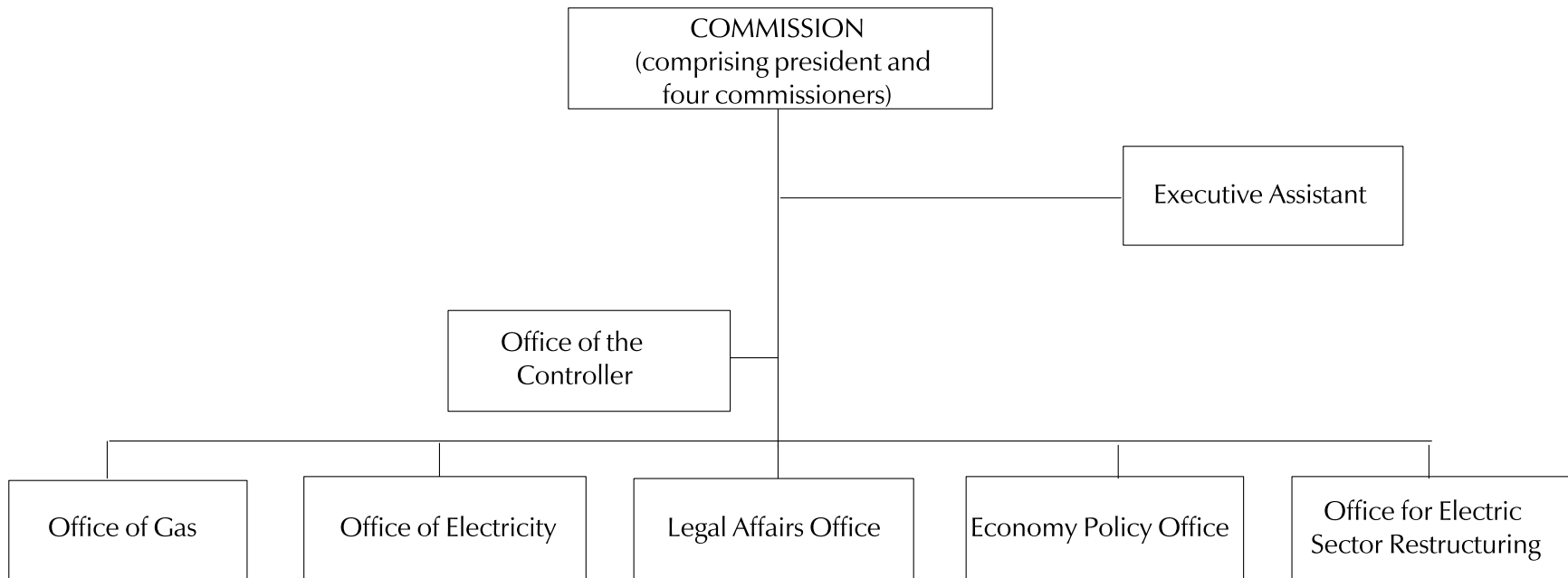
**APPENDIX 1:
ORGANIZATIONAL
CHARTS OF MEXICAN
GOVERNMENT AGENCIES**



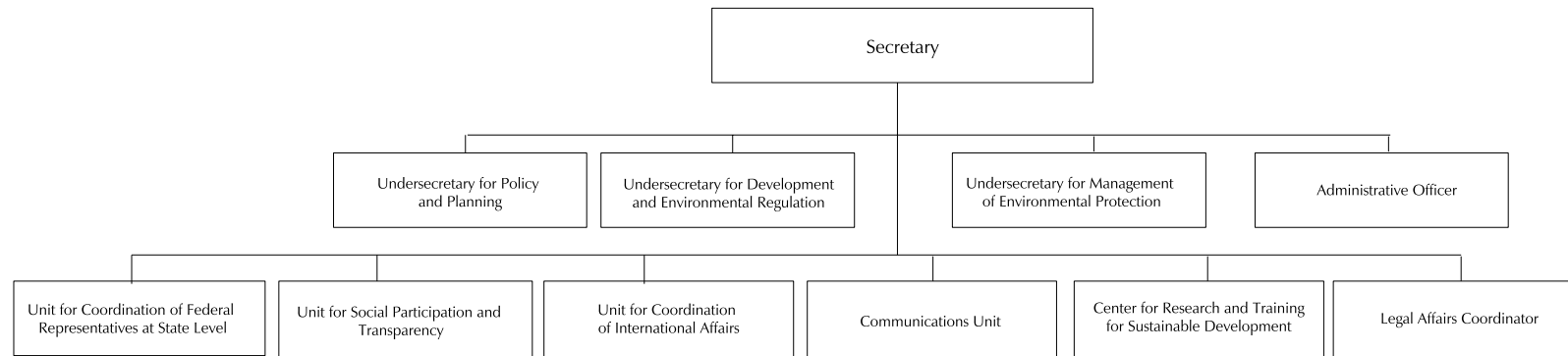
NATIONAL INSTITUTE OF ECOLOGY



ENERGY REGULATORY COMMISSION



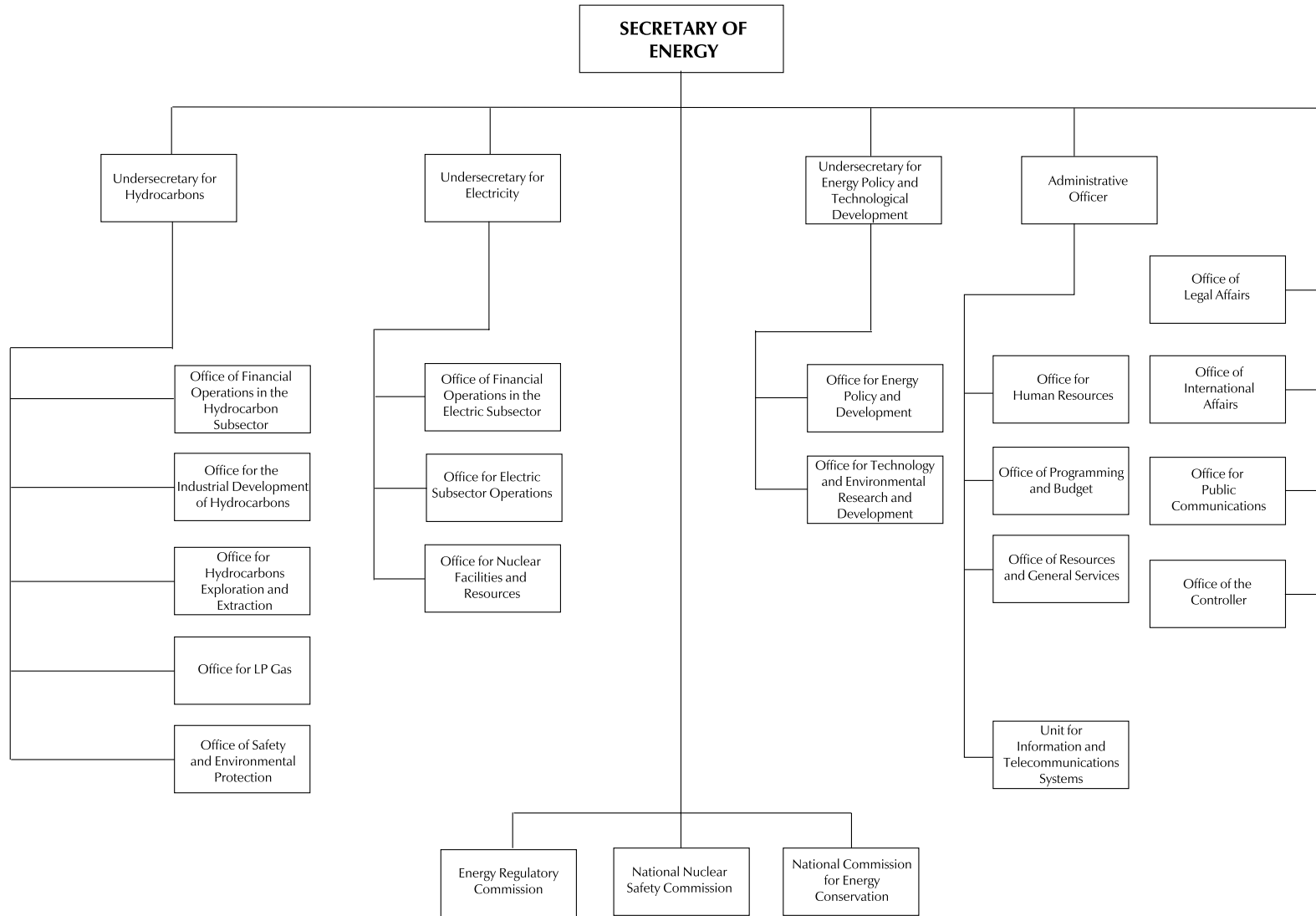
SECRETARIAT OF ENVIRONMENT AND NATURAL RESOURCES (SEMARNAT)



Decentralized Agencies



SECRETARIAT OF ENERGY



APPENDIX 2: DIRECTORY OF MEXICAN GOVERNMENT AGENCIES

**SECRETARIAT OF ENVIRONMENT AND
NATURAL RESOURCES (SEMARNAT)**

Mr. Raúl Enrique Arriaga Becerra
Undersecretary of Natural Resources
Lateral de Anillo Periférico Sur No.4209
Fracc. Jardines en la Montaña
Tel. 56.28.0623 / 56.28.06.24
Fax 56.28.06.55
E-mail: rarraiga@semarnat.gob.mx

Mr. Carlos García de Alba
Administrative Coordinator
Lateral de Anillo Periférico Sur No.4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.19 / Fax 56.28.06.81
E-mail: Cgarcia@semarnat.gob.mx

Mr. Jerónimo Ramos Saéñz Pardo
Undersecretary of Fishing
Lateral de Anillo Periférico Sur No.4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.10 / Fax 56.28.06.56
E-mail: jramos@semarnat.gob.mx

Mr. Francisco Szekely y S.
Undersecretary of Planning
Lateral de Anillo Periférico Sur 4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.15 / Fax 56.28.06.71
E-mail: fszekely@semarnat.gob.mx

Mr. Jesús Pantoja Villanueva
Undersecretary of Human Resources
Lateral de Anillo Periférico Sur No.4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.23 / Fax 56.28.06.55
E-mail: jpantoja@semarnat.gob.mx

Mr. Víctor Lichtinger Waisman
Secretary
Lateral de Anillo Periférico Sur No.4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.02—04—05 / Fax 56.28.06.43
E-mail: vlichtinger@semarnat.gob.mx

Mr. Pedro Alvarez Icaza Longoria
Coordinator of Economic and Social Analysis Unit
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel. 56.28.08.47 / Fax 56.28.07.13
E-mail: palvarez@semarnat.gob.mx

Mrs. Olga Ojeda Cárdenas
Coordinator of the International Affairs Unit
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.50 / Fax 56.28.06.53
E-mail: olojeda@semarnat.gob.mx

Mr. Jorge Alejandro Preciado Martínez
Internal Audit Unit
Av. San Jeronimo No. 458
Col. Jardines del Pedregal
Tel. & Fax 55.95.24.96
E-mail: jpreciado@semarnat.gob.mx

Mr. Arnaldo Martínez Osegueda
Director General of Social Communication
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel. 56.28.08.91 Ext. 10972 / Fax 56.28.06.97
E-mail: aosegueda@semarnat.gob.mx

Mr. Sergio Ampudia Mello
Director General of Legal Affairs
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel. 56.28.08.31 / Fax 56.28.08.32

Mr. Luciano Grobet Vallarta
Coordinator of Federal Delegations
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel. 56.28.06.26—27—28 / Fax 56.28.06.97
E-mail: lgrobet@semarnat.gob.mx

Mr. Cristóbal Jaime Jaquez
Director General of National Water Commission
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 56.61.38.06—45.55
Fax 56.61 39.29—56.61.08.40

Mr. Alvaro A. Aldama Rodríguez
Mexican Institute of Water Technology
Paseo Cuauhnahuac No. 8532
Jiutepec, Morelos
Tel. 01.73.19.37.42 / Fax 01.73.19.42.41
E-mail: aaldama@tlaloc.imta.mx

Mr. Exequiel Ezcurra
National Institute of Ecology
Av. Revolución No. 1425
Col. Tlacopac San Angel
Tel. 56.24.34.11 / Fax 56.24.35.98
E-mail: eezcurra@ine.gob.mx

Mr. José Campillo García
Office of the Attorney General for
Environmental Protection
Periférico Sur No. 5000 Col. Insurgentes
Cuicuilco
Tel. 55.28.54.09 / Fax 55.28.54.32
E-mail: pfpaweb@correo.profepa.gob.mx

Mr. Guillermo Compean Jiménez
National Institute of Fisheries
Pitagoras No. 1320
Col. Santa Cruz Atoyac
Tel. 56.04.91.69—56.88.14.69
Fax 56.88.84.18
E-mail: compean@inp.semarnat.gob.mx

NATIONAL ECOLOGY INSTITUTE (INE)

Mr. Exequiel Ezcurra, President
Av. Revolución 1425 38th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.34.00 / Fax 56.24.38.98
E-mail: eezcurra@ine.gob.mx

Mr. Rubén Pérez Lezama, Personal Secretary
Av. Revolución 1425 38th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.34.13 / Fax 56.24.35.98
E-mail: rlperez@ine.gob.mx

Mr. Carlos Muñoz Piña
Director of Environmental Regulation
Av. Revolución 1425 6th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.34.83 / Fax 56.24.35.83
E-mail: carmunoz@ine.gob.mx

Mr. Adrián Fernández Bremauntz
Director General of Environmental Information
Av. Revolución 1425 8th Floor Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.34.56 / Fax 56.24.35.84
E-mail: afernand@ine.gob.mx

Mrs. Margarita García Valdés
Director General of Communication and Social
Participation
Av. Revolución 1425 39th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.36.44 / Fax 56.24.35.69
E-mail: lgarcia@ine.gob.mx

Mrs. Jorge Bolaños-Cacho Ruiz
Director General of Risky Activities and
Residual Materials
Av. Revolución 1425 34th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.33.89 / Fax 56.24.35.95
E-mail: jbolanos@ine.gob.mx

Mr. Antonio Sánchez Martínez
Executive Administrative Director
Av. Revolución 1425 1st Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.35.30 / Fax 56.24.35.81
E-mail: asanchez@ine.gob.mx

Mr. Jorge A. Domínguez
Legal Executive Director
Av. Revolución 1425 29th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.33.94 / Fax 56.24.35.91
E-mail: jdomingu@ine.gob.mx

Mr. Hugo Harleston L.
Director of Executive Systems
Av. Revolución 1425 39th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.35.00 / Fax 56.24.35.97
E-mail: sac@ine.gob.mx

Mr. Sergio Ignacio Domínguez R.
Director of Environmental Impact and Ecologi-
cal Zoning
Av. Revolución 1425 16th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.33.62 / Fax 56.24.35.87
E-mail: sdomingu@ine.gob.mx

Mr. Fernando Clemente Sánchez
Director General of Wildlife
Av. Revolución 1425 20th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.33.06 / Fax 56.24.36.42
E-mail: fclement@ine.gob.mx

Mrs. Margarita Caso Chávez
Director General for Environmental Impact
Av. Revolución 1425 20th Floor
Col. Tlacopac
Mexico, D.F. 01040
Ph. 56.24.33.74 / Fax 56.24.33.68 / 35.87

NATIONAL WATER COMMISSION (CNA)

Mr. Cristóbal Jaime Jaquuez
Director General
Insurgentes Sur No. 2140 2 Floor
Col. Ermita
Tel. 56.61.38.06
Fax 56.61 39.29 / 56.61.08.40

Mr. Gerardo López Mergold
Personal Secretary
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 54.81.41.00 ext. 5005 and 5006
Fax 56.61 39.29 / 56.61.08.40

Mr. José Antonio Rodríguez Tirado
Chief of Staff
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 54.81.41.00 ext. 2800 and 2801
Fax 54.81.42.22
E-mail: jrodriguez@sgp.can.gob.mx

Mr. Eleno García Venavente
Unit of Rural Programs and
Social Participation
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 54.81.41.00 ext. 4003 / Fax 54.81.42.33

Mr. René Waller Mejía
General Auditor
Insurgentes Sur No. 1228 8 Floor
Col. Del Valle
Tel. 55.75.25.92—71 / Fax 55.75.91.69

Mr. Diego Paulino Rosas
Unit of Social Communication
Insurgentes Sur No. 2140 1st Floor
Col. Ermita
Tel. 54.81.41.00—2500—2501
Fax 56.63.40.08
E-mail: dpaulino@prodigy.net.mx

Ms. Blanca Alicia Mendoza Mera
Legal Affairs Unit
Privada de Relox No. 16 4th Floor
Col. Guadalupe Inn
Tel. 54.81.11.10—11 / Fax 54.81.11.15

Mr. César Octavio Ramos Váldez
Director General of Operations
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 54.81.41.00 ext. 4020—4021
Fax 56.61.20.60

Mr. Luis Rendón Pimentel
Manager of Distribution Unit
Insurgentes Sur No. 1960 6th Floor
Col. Florida
Tel. 56.63.22.08—22.09 / Fax 56.63.30.75

Mr. Isidro Gaytán Arvízu
Manager of Temporary Technical Districts
Insurgentes Sur No. 1860 5th Floor
Col. Florida
Tel. 52.29.86.08 / 56.63.56.92
Fax 52.29.36.12

Mr. Francisco Amoz Díaz Barriga
Manager of Operation, Conservation and
Engineering of Dams and
Pumping Plants
Insurgentes Sur No. 1860 2nd Floor
Col. Florida
Tel. 56.62.10.10 / Fax 56.63.47.34

Mr. Próspero Ortega Moreno
Director of Construction
Insurgentes Sur No. 2140 1st Floor
Col. Ermita
Tel. 54.81.41.00 ext. 2615—2616
Fax 56.81.42.62
E-mail: cnasgc@mail.internet.com.mx

Mr. Antonio Fernández Esparza
Manager of Projects—Sewers, Purity and
Potable Water
Privada de Relox No. 16
Col. Guadalupe Inn
Tel. 54.81.12.70—71 / Fax 54.81.12.73

Mr. Jesús Campos López
Manager of Potable Water Proyectos
Privada de Relox No. 16 5th Floor
Col. Guadalupe Inn
Tel. 54.81.12.80—81 / Fax 54.81.12.83
E-mail: cnagcaps@mail.internet.com.mx

To be appointed
Manager of Public Works Contracting
Privada de Relox No. 16 5th Floor
Col. Guadalupe Inn
Tel. 54.81.12.20 / Fax 54.81.12.31

Mr. Mario Alfonso Cantú Suárez
Director of Water Administration
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 54.81.41.00 ext. 3000—3014—5200
Fax 56.61.35.90

Mr. Guillermo Martínez Jiménez
Manager of Customer Services
Insurgentes Sur No. 1863 3rd Floor
Col. Ermita
Tel. 56.62.45.24 / 56.61.39.27
Fax 56.61.22.87

Mr. Jesús Martínez Torres
Manager of Collection and Control
Insurgentes Sur No. 1960 1st Floor
Col. Ermita
Tel. 56.63.22.79 / 56.63.22.80
Fax 56.63.22.81

Mr. Mario Alberto Rodríguez Pérez
Manager of Public Register of Water Rights
Insurgentes Sur No. 1863 5th Floor
Col. Ermita
Tel. 56.62.45.09 / 56.61.65.12
Fax 56.61.39.46
E-mail: mrodriguez@sgaa.cna.gob.mx

Mr. Alfonso Salinas Ruiz
Manager of Evaluation and Development
Insurgentes Sur No. 1863 6th floor
Col. Ermita
Tel. 56.62.41.65 / 56.61.65.34
Fax 56.61.65.25
E-mail: afelix@sgaa.cna.gob.mx

Mr. César Herrera Toledo
Assistant Director of Programming
Insurgentes Sur No. 2140 2nd Floor
Col. Ermita
Tel. 54.81.41.00 ext. 3500—3501
Fax 54.81.41.17
E-mail: cnasgp@supernet.com.mx

Mr. Gustavo Paz Soldán
Manager of Studies for Hydraulic Development
Insurgentes Sur No. 1960
Col. Ermita
Tel. 56.63.21.92—22.11 / Fax 56.63.30.74
E-mail: cnagedhi@supernet.com.mx

Mr. Juan Carlos Valencia Vergas
Manager of Hydraulic Planning
Insurgentes Sur No. 1942 Col. Florida
Tel. 56.63.22.77—71 / Fax 56.62.09.43

Mr. Ernesto González Ocaña
Manager of Programming and Budget
Insurgentes Sur No. 1942
Col. Florida
Tel. 56.62.97.99 / Fax 56.61.36.06
E-mail: egonzalez@sgp.cna.gob.mx

Mr. Salvador Aguilera Verduzco
Manager of Finance
Insurgentes Sur No. 1960
Col. Florida
Tel. 56.63.22.89 / Fax 56.63.30.74
E-mail: saguilera@sgp.cna.gob.mx

Mr. Alberto Jaime Paredes
Technical Director
Insurgentes Sur No. 2140 1st Floor
Col. Ermita
Tel. 54.81.42.80—81 / Fax 56.61.54.30
E-mail: ajaime@gsmn.cna.gob.mx

Mr. Jose Antonio Nieto Ramírez
Technical Consultant
Privada del Relox No. 16 3rd Floor
Col. Guadalupe Inn
Tel. 54.81.12.38—39 / Fax 54.81.12.63
E-mail: ctcna@supernet.com.mx

Mr. Antonio Acosta Godínez
Manager of Engineering for Surface Water and Rivers
Insurgentes Norte No. 30
Tel. 55.66.22.47 / Fax 55.66.02.80
E-mail: gasir4@supernet.com.mx

Mr. Rubén Chávez Guillén
Manager of Underground Water Supplies
Privada del Relox No. 16 3rd Floor
Col. Guadalupe Inn
Tel. 54.81.12.92 / Fax 54.81.11.06
E-mail: rchavezg@cna.gob.mx

Mr. Ignacio Castillo Escalante
Manager of Water Quality and Purity
San Bernabé No. 549 Col. San Jerónimo Lídice
Tel. 55.95.44.53 / Fax 55.95.39.50

Mr. Carlos Espinoza González
Manager of National
Meteorological Service
Ave. Observatorio No. 192
Tel. 56.26.86.50 / Fax 56.26.86.95
E-mail: cespinoza@gsmn.CNA.gob.mx

Mr. Enrique Mejía Maravilla
Manager of Basic Engineering
Privada del Relox No. 16 3rd Floor
Col. Guadalupe Inn
Tel. 54.81.12.64—65 / Fax 54.81.12.66

Mr. César Luis Coll Carabias
Administrative Director
Insurgentes Sur No. 2140
Col. Ermita
Tel. 54.81.41.00 ext 2000—2001
Fax 54.81.41.22

Mr. Alejandro Espinosa Garibay
Human Resources Manager
Insurgentes Sur No. 2140 1st Floor
Col. Ermita
Tel. 54.81.41.00 ext. 2300—2301- 2302
Fax 56.61.26.80

Mr. Francisco Fernando Rodríguez Ibarra
Financial Resources Manager
Insurgentes Sur No. 2140
Col. Ermita
Tel. 54.81.41.00 ext. 2200—2201- 2202
Fax 56.61.37.83

Mr. José Antonio Serrano Moreno
Material Resources Manager
Insurgentes Sur No. 2140
Col. Ermita
Tel. 54.81.41.00 ext. 2100—2101- 2102
Fax 54.81.41.79

SECRETARIAT OF ENERGY (SENER)

Mr. Ernesto Martens Rebolledo
Secretary
Insurgentes Sur No. 890 17th Floor
Col. Del Valle
Tel. 54.48.60.31 / 32 / Fax 54.48.60.55
E-mail: emartens@energia.gob.mx

Mr. Juan Antonio Vargas
Under Secretary for Policy and Energy
Development
Insurgentes Sur No. 890 15th Floor
Col. Del Valle
Tel. 54.48.60.70 / Fax 54.48.62.25
E-mail: javarg@energia.gob.mx

Mr. Nicéforo Guerrero Reynoso
Undersecretary for Energy Operation
Insurgentes Sur No. 890 6th Floor
Col. Del Valle
Tel. 54.48.62.31 / Fax 54.48.60.48
E-mail: guerrero@energia.gob.mx

Mr. Fernando Alonso Viñas
Chief of Investment Promotion Unit
Insurgentes Sur No. 890 4th Floor
Col. Del Valle
Tel. 54.48.60.56—57 / Fax 54.48.62.45
E-mail: falonso@energia.gob.mx

Mrs. Maria Luisa Ríos Vargas
Unit of Social Communication
Insurgentes Sur No. 890 1st Floor
Col. Del Valle
Tel. 54.48.62.43 / Fax 54.48.60.64

Mrs. María de Lourdes Melgar Palacios
Director General of
International Affairs
Insurgentes Sur No. 890 12th Floor
Col. Del Valle
Tel. 54.48.61.03—04 / Fax 54.48.60.94
E-mail: dgai@energia.gob.mx

Mrs. Rosa Elvia Candelaria Cruz
Responsible of Internal Control
Internal Audit Unit
Insurgentes Sur No. 890 5th Floor
Col. Del Valle
Tel. 54.48.62.39 / Fax 54.48.60.50
E-mail: ci@energia.gob.mx

Mr. José Robles Díaz
Director General of Legal Affairs
Insurgentes Sur No. 890 15th Floor
Col. Del Valle
Tel. 54.48.60.70—72—73—71
Fax 54.48.62.25

Mr. Manuel Betancourt García
Director General of Policy and
Energy Development
Insurgentes Sur No. 890 14th Floor
Col. Del Valle
Tel. 54.48.60.79 / Fax 54.48.60.95
E-mail: mbetanco@energia.gob.mx

Mr. Rafael Alexandri Rionda
Director General of Energy and Radioactive
Resources
Insurgentes Sur No. 890 11th Floor
Col. Del Valle
Tel. 54.48.60.89 / Fax 54.48.61.01—42
E-mail: alexan@energia.gob.mx

Mr. Jorge Albert Bazua Rueda
Director General of Financial Operation
Insurgentes Sur No. 890 9th Floor
Col. Del Valle
Tel. 54.48.61.49 / Fax 54.48.61.43
E-mail: jbazua@energia.gob.mx

Mr. Ignacio Armendariz Molina
Director General of Productive Operation
Insurgentes Sur No. 890 9th Floor
Col. Del Valle
Tel. 54.48.61.32 / Fax 54.48.61.43
E-mail: jbazua@energia.gob.mx

Mr. Carlos Baltazar Parrales
Director General of Security and Protection of
the Environment
Insurgentes Sur No. 890 9th Floor
Col. Del Valle
Tel. 54.48.61.35 / Fax 54.48.61.43
E-mail: baltazar@energia.gob.mx

Mr. Francisco Rodríguez y Ruiz
Director General of Electric Installations and
L.P. Gas
Insurgentes Sur No. 890 3rd Floor
Col. Del Valle
Tel. 54.48.62.02 / Fax 54.48.62.23
E-mail: frr@energia.gob.mx

Mrs. María Fernanda Casanueva de Diego
Major Official
Insurgentes Sur No. 890 16th Floor
Col. Del Valle
Tel. 54.48.61.60—61—62
Fax 54.48.61.85

Mr. Antonio Martínez Mendoza
Administration Unit
Insurgentes Sur No. 890 7 Floor
Col. Del Valle
Tel. 54.48.61.71 / Fax 54.48.61.88
E-mail: amm@energia.gob.mx

Mr. Mario Alberto Fósil Ortega
Director General of Human Resources
Insurgentes Sur No. 890 2nd Floor
Col. Del Valle
Tel. 54.48.61.94 / Fax 54.48.61.96

Mr. Alfredo Bouchot Alfaro
Director General of Budget and Programming
Insurgentes Sur No. 890 7th Floor
Col. Del Valle
Tel. 54.48.61.67 / Fax 54.48.61.86
E-mail: abouchot@energia.gob.mx

Mr. Eikar Meyer Murguía
Chief of Information Unit
Unit of Data Processing and
Telecommunications
Insurgentes Sur No. 890 Mezzanine
Col. Del Valle
Tel. 54.48.62.70 / Fax 54.48.60.25
E-mail: emeyer@energia.gob.mx

ENERGY REGULATORY COMMISSION (CRE)

Mr. Dionisio Pérez -Jácome Friscione
President
Horacio No. 1750
Col. Planco
Tel. 52.83.15.50—51 / Fax 52.80.36.25

Mr. Rubén Flores, Commissioner
Horacio No. 1750
Col. Planco
Tel. 52.83.15.74 / Fax 52.83.15.48

Mr. Raúl Monteforte, Commissioner
Horacio No. 1750
Col. Planco
Tel. 52.83.15.74 / Fax 52.83.15.48

Mr. Javier Estrada, Commissioner
Horacio No. 1750
Col. Planco
Tel. 52.83.15.40 / Fax 52.83.15.48

Mr. Raúl Nocedal, Commissioner
Horacio No. 1750
Col. Planco
Tel. 52.83.15.41 / Fax 52.83.15.48

Mr. Francisco J. Váldez López
Executive Secretary
Horacio No. 1750
Col. Planco
Tel. 52.83.15.55

Mr. Francisco de la Isla
Director General of the Economic Policy Unit
Horacio No 1750 3rd Floor
Col. Planco
Tel. 52.83.15.30 / Fax 52.83.15.75

Mr. Francisco De Rosenzweig
Director General of Electrical
Restructuring Unit
Horacio No 1750
Col. Planco
Tel. 52.83.15.96 / 15.26 / Fax 52.83.15.97

Mr. Alejandro Breña
Director General of Natural Gas
Horacio No 1750
Col. Planco
Tel. 52.81.03.97 / Fax 52.83.15.39

Mr. Alejandro Peraza
Director General of Electricity
Horacio No 1750
Col. Planco
Tel. 52.83.15.20 / Fax 52.83.15.01

Mr. Guillermo Rodríguez
Director General of Legal Affairs
Horacio No 1750
Col. Planco
Tel. 52.83.15.25 / Fax 52.83.15.19

Mr. Fernando Gutiérrez
Director General of Systems
and Organization
Horacio No 1750
Col. Planco
Tel. 52.83.15.15 / Fax 52.83.15.48

Mr. Pedro Ortega
Director General of Administration
Horacio No 1750
Col. Planco
Tel. 52.81.03.34 / Fax 52.83.15.05

Mr. Carlos Muñoz
Operations Director of the Electricity Division
Horacio No 1750
Col. Planco
Tel. 52.83.15.22 / Fax 52.83.15.01

APPENDIX 3: KEY INTERVIEWS

SECRETARIAT OF ENVIRONMENT AND NATURAL RESOURCES (SEMARNAT)

Dr. Juan Carlos Belausteguigoitia Rius
Undersecretary of Planning
(Administration of President Zedillo)

Mr. Raúl Enrique Arriaga Becerra
Under Secretary of Natural Resources
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel 56.28.06.23 / 56.28.06.24
Fax 56.28.06.55
E-mail: rariaga@semarnat.gob.mx

Mr. Pedro Alvarez Icaza
Coordinator of the Unit of Economical and Social Analysis
Lateral de Anillo Periférico Sur No. 4209
Fracc. Jardines en la Montaña
Tel. 56.28.08.47 / Fax 56.28.07.13
E-mail: palvarez@semarnat.gob.mx

Mr. Jesús Carrasco Gómez
Assistant Director General of the National Forest Inventory
Progreso No. 5 Building 2
Col. Del Carmen
Coyoacán 01400
Tel. 55.54.71.20 / Fax 56.58.35.56
E-mail: jcarrasco@semarnat.gob.mx

NATIONAL ECOLOGY INSTITUTE (INE)

Mr. Sergio Domínguez
(Administration of President Fox)
Mr. Fedro Carlos Guillén Rodríguez (Administration of President Zedillo)
Director of Environmental Impact and Ecological Ordering
Av. Revolución 1425 16th Floor
Col. Tlacopac Mexico, D.F. 01040
Ph. 56.24.33.62
Fax 56.24.35.87
E-mail: fguillen@ine.gob.mx

Mrs. Rosa Gómez Sosa
Director of Environmental Impact
Av. Revolución 1425 18th Floor
Col. Tlacopac Mexico, D.F. 01040
Ph. 56.24.33.74 (75/79) / Fax 56.24.33.68
E-mail: rgomez@ine.gob.mx

Mr. Alejandro Mario Olivera Toro Maya
Chief of the Department of Environmental Impact
Av. Revolución 1425 Mezzanine
Col. Tlacopac Mexico, D.F. 01040
Ph. 56.24.33.81 / Fax 56.24.33.68
E-mail: olivera@ine.gob.mx

Mrs. Teresa Morales
Assistant Manager
Av. Revolución 1425 18th Floor
Col. Tlacopac Mexico, D.F. 01040
Ph. 56.24.33.74 (75/79) / Fax 56.24.33.68
E-mail: tmoreales@ine.gob.mx

Mr. Amado Ríos
Project Coordinator
Av. Revolución 1425 18th Floor
Col. Tlacopac 01040 México, D.F.
Ph. 56.24.33.74 (75/79) / Fax 56.24.33.68
E-mail: arios@ine.gob.mx

NATIONAL WATER COMMISSION (CNA)

Mr. Alfredo Trujillo Carrillo
Manager of Customer Services
Av. Insurgentes Sur 1863 2nd Floor
Col. Guadalupe Inn
México, D.F. 01020
Ph 5661-0387
Fax 5661-3940
atrujillo@sgaa.CNA.gob.mx

Mr. Héctor Cruz
Assistant Manager of Customer Services
Av. Insurgentes Sur 1863 2nd Floor
Col. Guadalupe Inn
México, D.F. 01020
Ph 5661-0387 / Fax 5661-3940

Mrs. Alicia Muñoz
Assistant Manager of Customer Services
Av. Insurgentes Sur 1863 2nd Floor
Col. Guadalupe Inn
México, D.F. 01020
Ph 5661-0387 / Fax 5661-3940

Office of Federalization and Decentralization of Forest and Land Services (DGFDSFS)

Mr. Rafael Obregón Viloría
Director General of DGFDSFS
Progreso No. 5 Building 2
Col. Del Carmen
Coyoacán 01400
Tel. 56.58.84.36 / Fax 56.58.60.59
E-mail: robregon@buzon.semarnat.gob.mx

Mrs. Guadalupe Rivera
Head of Policy and Regulation
Progreso No. 5
Col. Del Carmen
Coyoacán 01400
Tel. 55.54.72.48 / Fax 55.54.72.48
E-mail: grivera@semarnat.gob.mx

Mr. Víctor Huitrón
Assistant of Policy and Regulation
Progreso No. 5
Col. Del Carmen
Coyoacán 01400
Tel. 55.54.72.48 / Fax 55.54.72.48

SECRETARIAT OF ENERGY (SENER)

Dr. Jorge Chávez Presa
Under Secretary of Energy Policy and Distribution
(Administration of President Zedillo)
Mrs. María de Lourdes Melgar Palacios
Director General of International Affairs
Insurgentes Sur No. 890 12th Floor
Col. Del Valle
Tel. 54.48.61.03 / Fax 54.48.60.94
E-mail: dgai@energia.gob.mx

Mr. Fernando Alonso
Head of the Investment Promotion Unit
Insurgentes Sur No. 890 4th Floor
Col. Del Valle
Tel. 54.48.60.57 / Fax 54.48.62.45

ENERGY REGULATORY COMMISSION (CRE)

Mr. Dionisio A. Pérez-Jacome Friscione
President
Horacio 1750
Col. Polanco
11510 México, D.F.
Tel 52.83.15.50 / Fax 52.80.36.25

Mrs. Elizabeth Fortoul Audiffred
Adjunct Director General for Gas
Horacio 1750
Col. Polanco
11510 México, D.F.
Tel 52.83.15.35 / Fax 52.83.15.39
E-mail: efortoul@cre.gob.mx

Mr. Carlos Muñoz
Operations Director of the Electricity Division
Horacio 1750
Col. Polanco
11510 México, D.F.
Tel 52.83.15.22 / Fax 52.83.15.01

Mr. Francisco Granados Rojas
Assistant to the Director General of Electricity
Horacio 1750
Col. Polanco
11510 México, D.F.
Tel 52.83.15.92 / Fax 52.83.15.01
E-mail: fgranados@cre.gob.mx

Mr. Manuel Arenas, Head of Information
Horacio 1750
Col. Polanco
11510 México, D.F.
Tel 52.83.15.90 / 52.81.03.34

ELECTRICITY FEDERAL COMMISSION (CFE)

Mr. Eduardo Arriola, Senior Vice-President
Reforma No.164 9th Floor
Col. Juárez
Tel. 57.05.38.98 / Fax 57.05.38.44
E-mail: earriola@cfе.gob.mx

Mr. Eduardo Flores Magón, Advisor

Mr. Eugenio Laris
Director of Financed Projects
Reforma No.164 14th Floor
Col. Juárez
Tel. 57.05.06.01 / 57.05.07.73
Fax 57.05.44.72

Mr. Humberto López Rubalcava
Assistant Manager of Permit
Procedures and Environmental Issues
Reforma No.164 14th Floor
Col. Juárez
Tel. 52.29.44.00 x6828 / Fax 57.05.44.19
E-mail: hlopezru@cfе.gob.mx

Mr. Sergio Palafox
Chief of Permit Procedures
Reforma No.164 14th Floor
Col. Juárez
Tel. 52.29.44.00 x6962 / Fax 57.05.44.19
E-mail: palafop@cfе.gob.mx

SECRETARIAT OF WORK AND SOCIAL SECURITY (STPS)

Mr. Juan Antonio Legaspi Velasco
Director General of Workplace Hygiene and Safety
Valencia 36 2nd Floor
Col. Insurgentes Mixcoac
03920 México, D.F.
Tel 5563-0500 x3100 / 3101

Mr. Chino Ríos, Director for Permitting
Adjunct Office for Safety and Hygiene
Azcapotzalco—La Villa No. 209
Building 1
Col. Barrio de Santo Tomás
02020 México, D.F.
Tel 5394-5166 x3510

SECRETARIAT OF HEALTH (SS)

Mr. Roberto Tapia Conyer
Under Secretary for Prevention and Control of
Illnesses
Lieja No. 7 1st Floor
Col. Juárez
México, D.F.
Tel 56.72.09.43 / 55.63.68.88
Fax 53.62.69.50

**SECRETARIAT OF COMMUNICATIONS AND
TRANSPORTS (SCT)**

Mrs. Graciela Malacara Díaz
Director General of Legal Affairs
Ave. Universidad y Xola Cuerpo B
Tel 57.23.93.00 ext. 20356

Mr. Oscar Corzo
Director General of Traffic, Train Transport
and Systems
Nueva York No. 155 P.H.
Col. Nápoles
Tel 56.87.59.20 / Fax 56.82.57.36
E-mail ocorzo@sct.gob.mx

Mr. Leonel López Celaya
Director General of Telecommunications Policy
Lázaro Cárdenas No. 567 15th Floor S. Wing
Tel 55.30.16.45 / Fax 55.30.18.16

SECRETARIAT OF NATIONAL DEFENSE (SEDENA)

Brigadier Gral. José Enrique Ortega Siniestra
Director General for Arms and Explosives
Ave. Miguel de Cervantes Saavedra No. 596
Col. Irrigación
Tel. 56.26.59.03 / Fax: 56.26.59.05

STATE OF NUEVO LEON

Mr. Valentín Martínez
Undersecretary of Urban Development and
Public Works
Churubusco 495 Norte Col. El Fierro
Tel 01(8) 355-1529 / 355-1710

Mr. Julián de la Garza
Undersecretary of Ecology of the State of
Nuevo León
Av. Alfonso Reyes No. 1000 Norte
Col. Regina Parque Ecológico
Tel 01(8) 331-3156 / 331-3164 / 331-3194

Mrs. Teresa González, Chief, Land Use Area
Av. Alfonso Reyes No. 1000 Norte
Col. Regina Parque Ecológico
Tels 01(8) 321-3277 / 331-3276

Municipality of Monterrey

Mr. Esteban Bárcenas Alcalá
Secretariat of Urban Development and Ecology
Zaragoza y Ocampo S/N 2nd Floor
Col. Centro
Monterrey, N.L. 64000
Tel 01(8) 342-3615 / 342-3674

**Assistants to the Secretariat of Urban
Development and Ecology:**

Mrs. Gloria Gutiérrez Blanco
Coordinator of Construction Permits
Zaragoza y Ocampo S/N 2nd Floor
Col. Centro
Monterrey, N.L. 64000
Tel 01(8) 340-1564 / Fax 01(8) 340-7383

Mr. Luis Zavala Castillo
Chief of Office for Inspection of Land Use
Zaragoza y Ocampo S/N 2nd Floor
Col. Centro
Monterrey, N.L. 64000
Tel 01(8) 342-4135 / 344-8172

Municipality of Escobedo

Director of Urban Development and Ecology
Mr. David Valdés Mireles
Juárez No. 100
General Escobedo, N.L. CP 66050
Tels 01(8) 384-4646 / 384-4949

Municipality of Apodaca

Director of Urban Development
Mr. Javier Adrián Flores Villareal
Abasolo 103
Apodaca, N.L.
Tels (01)8 386-2043 / 386-3241
Fax (01)8 386-3242

STATE OF CHIHUAHUA

Mr. Carlos Carrera Robles
Director of Urban Development
Av. Silvestre Terrazas y Carretera a la Presa
Chuviscar 1108 CP 31410
Col. Alfredo Chávez
Chihuahua, Chih.
Tel 01(14)11-7880 / 11-8182 x105
Fax 01(14)11-9288

Mr. Gabriel Valdéz Juárez
Assistant Director of Urban Planning
Av. Silvestre Terrazas y Carretera a la Presa
Chuviscar 1108 CP 31410
Col. Alfredo Chávez
Chihuahua, Chih.
Tel 01(14)11-7880 / 11-8182 x105
Fax 01(14)11-9288
E-mail: valdez_gabriel@yahoo.com

Mr. Refugio Mingura Arias, *SEMARNAT*
Environmental Operations Unit
Av. de las Américas 300-B
Chihuahua, Chih.
Tel 01(14) 42-1510 / 42-1511
Fax 01 (14) 42-1553

Mrs. Lydia Villalobos Prieto
Chief of Department for Pollution Prevention
and Control
Aldama 1316 y Calle 15
Col. Centro
Tels 01(14) 15-4937/29-3300/29-3397 x4962
Fax 01(14) 10-0474
Chihuahua, Chih. CP 31000
E-mail: sgduocol@buzon.chihuahua.gob.mx

STATE OF COAHUILA

Mr. Sergio Vilés
Director General of the Secretariat of Planning
and Development
Victoria 608 Poniente 1st Floor
Entre Xicotencatl y Obregón
Saltillo, Coahuila
Tel 01(8) 412-5622 412-5678

Mr. Sergio Martínez Alfaro
Director of Prevention and Pollution Control
Victoria 608 Poniente 1st Floor
Entre Xicotencatl y Obregón
Saltillo, Coahuila
Tel 01(8) 412-5622 412-5678

STATE OF TAMAULIPAS

Mr. Jorge Fernández Villareal
Director General of Natural Resources and
Environment
Secretariat of Urban Development and Ecology
13 Guerrero y Bravo No. 374
Cd. Victoria, Tam. CP 87000
Tels 01(1) 315-4198 / Fax 01(1) 315-5580
E-mail: sdudgrn@tamaulipas.gob.mx

Mr. Gerardo Barrios Nuñez de Cáceres
Department of Environmental Impact
Secretariat of Urban Development and Ecology
13 Guerrero y Bravo No. 374
Cd. Victoria, Tam. CP 87000
Tels 01(1) 315-5446 / Fax 01(1) 315-5580

Mr. Heberto Cabazos
Director of Environmental Management
Secretariat of Urban Development and Ecology
13 Guerrero y Bravo No. 374
Cd. Victoria, Tam. CP 87000
Tels 01(1) 315-4198 / Fax 01(1) 315-5580

Mr. Javier González García
Director General of Urban Management
Secretariat of Urban Development and Ecology
13 Guerrero y Bravo No. 374 9th Floor
Cd. Victoria, Tam. CP 87000
Tels 01(1) 318-9456 / Fax 01(1) 318-9475
E-mail: desregyurbano@infosel.net.mx

Mr. Jorge Ojeda
Secretariat of Economic Development and
Employment
13 Guerrero y Bravo No. 374
Cd. Victoria, Tam. CP 87000
Tels 01(1) 315-4198 / Fax 01(1) 315-5580

PRIVATE COMPANIES:

COMEGO
Mr. Rodolfo Salmón
Project Engineer
Alfonso Nápoles Gándara No. 50 Piso 4
Col. Santa Fé 01210 México, D.F.
Tel 52.61.87.64 / Fax 52.61.86.75
E-mail: rodolfo.salmon@comego.com.mx

TECHINT
Mr. Pedro López
Legal coordinator
Edificio Parque Reforma
Campos Elíseos No. 400-1
11560 México, D.F.
Tel 52.82.86.39
E-mail: plopez@techint.com.mx