



Energy Client Monthly Report

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Despite concerted public relations efforts by the Sheinbaum administration to reassure markets regarding the impact of the energy and judicial reforms on Mexico's investment climate and its USMCA obligations, the actual language of the reforms as well as recent developments around them make it hard to take the administration's rhetoric at face value. At the same time, Donald Trump's decisive victory in the U.S. presidential election on November 5 will likely lead to new bilateral challenges.

The Full Court Press

President Sheinbaum, Economy Minister Marcelo Ebrard, and Presidential Liaison to the Private Sector Altagracia Gomez have consistently reassured the private sector that the energy and judicial reforms will not have a negative impact on investors. In early October, Ebrard announced the creation of a business council within the Economy Ministry, something that has never existed before, aimed at incorporating private sector input into policymaking and implementation. The following day, the president announced a working group of Mexican and U.S. investors to whom the administration will explain the energy and judicial reforms and the government's strategy to attract investment. At the U.S.-Mexico CEO Dialogue on October 15, President Sheinbaum delivered a pro-investment message emphasizing that the private sector had nothing to fear from the reforms. In late October,

Presidential Liaison Gomez insisted that the make-up of the judicial evaluation committees will guarantee the integrity of the new judges, magistrates, and justices. Despite all this business-friendly talk, the actual content of the energy reform and developments surrounding the judicial reform leave the private sector with more concern than comfort for now.

Energy Reform is Approved; National Energy Strategy is Announced

As detailed in our [November 1 client alert](#), the energy reform has transformed the CFE and Pemex into “public enterprises” supported by the state, with a focus on providing affordable energy to the public rather than generating profits. The reform also ensures CFE’s priority over private electricity firms in power generation.

On November 6, President Sheinbaum announced her administration’s National Energy Strategy (NEP), basing it on four guiding principles:

- 1) Strengthen the planning capabilities of the National Electric System – Although it was not specifically mentioned, this likely signals the absorption of Mexico’s independent grid operator and dispatcher, CENACE, into CFE.
- 2) Promote “energy justice” – By bringing power to the remaining 0.5% of homes in Mexico that lack access to electricity.
- 3) Build a robust, trustworthy, and safe electric system – By committing to invest US\$23.4 billion in state funds from 2024-2030, with over 53% allocated to generation to add 13,000 MW, 32% allocated to transmission, and 15% allocated to distribution.
- 4) Establish clear rules to secure and support private investment – By providing certainty for investors, the administration expects to attract the private investment needed to meet Mexico’s international climate and sustainability commitments.

As directed by the NEP, investment in electricity generation will be centrally coordinated to streamline the permitting process through the following three actions: a) interagency cooperation among SENER, CFE, CRE, SEMARNAT, and local governments, among others; b) utilization of digital technology for tracking and traceability of procedures; and c) reduction of procedures, timelines, and costs.

The NEP also clarifies that utility-scale projects may be pursued through five operating structures (described below) so long as they meet certain requirements depending on the



type of project, with which it expects to capture between US\$6-9 billion from private investors to develop 6,400-9,500 MW of clean energy and renewable projects:

- 1) Supply contracts with CFE – We anticipate a “regional” auction system like the one enacted through the 2013 reform and extensions to the existing Independent Power Producer (IPP) regime, including new contracts.
- 2) Public-private partnerships – As long as CFE maintains at least a 54% ownership position, which may prove challenging to investors.
- 3) Wholesale Electricity Market projects – Participants in the wholesale marketplace must meet stability and backup requirements, including, among other requirements, battery storage for renewable energy representing 30% of a project’s capacity.
- 4) Behind-the-meter self-supply – Can range from 0.7 to 20 MW for commercial and industrial entities that do not feed any excess electricity to the grid.
- 5) Self-supply projects with grid interconnection – Companies may utilize the public electricity grid to transport self-generated supply as long as they pay fair and transparent transmission fees. No details were provided, but this presumably would allow one firm to supply multiple company-owned locations with power from the same plant.

The administration’s goal is to entice the participation of private investment in generation projects, while keeping a 54% market share for CFE and 46% for the private sector. The language of President Sheinbaum’s team indicates a willingness to listen to feedback and work constructively with the private sector energy community, but the devil will be in the details of the implementing legislation. At this time, few details have been provided.

Two issues remain unanswered that we expect will make or break the investment community’s willingness to consider Mexico as a destination for their capital. First, how will CFE’s 54% market share be determined? Will CFE’s share include self-supply projects or IPPs or will those be counted as private participation in the market? Second, given that CFE will now have prevalence over private generation, how will the dispatch order be managed so that investors can evaluate projects with confidence in a return on investment? The administration has given itself 180 days, or until April 30, 2025, to forge secondary legislation that answers these questions. Failure to do so in a satisfactory way for the private sector will not only fail to attract enough international investment to keep up with increasing power demand, but it will also add a major irritant to the 2026 USMCA review process.

Judicial Reform Takes Another Wrong Turn

President Sheinbaum’s team has told investors that their concerns about judicial reform will be dealt with in the secondary legislation. However, the legislation needed to establish the requirements for potential judicial candidates has yet to be introduced in Congress. Instead, in an apparent response to a judicial order mandating the president to reverse her authorization of the judicial reform or face contempt of court, Morena introduced yet another constitutional reform. This reform prevents the judiciary from declaring any aspect of a constitutional reform approved by the legislature as unconstitutional. As Sheinbaum stated, “a judge is not above the Mexican people,” who voted for Morena, knowing the party had promised this judicial reform. This additional constitutional reform was fast-tracked: introduced on October 22, it was approved by both houses of Congress and half of the state legislatures by October 31, and it was immediately signed and published in the Mexican official gazette.

The urgency was driven by a parallel process in the Supreme Court where a draft ruling declaring portions of the judicial reform unconstitutional was reviewed on November 5. This proposed ruling aimed to present the government with a compromise. It argued that justices of the Supreme Court and Electoral Tribunal and members of the new judicial oversight board could be elected, but federal judges and magistrates (the vast majority of the federal judiciary) could not. It was not approved, however, as one justice who was expected to support the draft ruling voted against it at the last minute. There are rumors that the government used the same tactic to win his vote that it used to obtain the final Senate vote needed to approve the judicial reform in the first place—pursuing a legal case against the justice with the expectation that it would disappear in exchange for his vote. Whether true or not, the government appears to have successfully eliminated the Supreme Court as a check on executive authority.

Finally, the government has also argued that the members of the evaluation committee, responsible for reviewing applications from potential judicial candidates and selecting the most qualified candidates for the June ballot, will inspire confidence in the election process. The 10 members appointed by the executive and legislature (the other 5 were named by the Supreme Court) are indeed experienced lawyers and jurists. They are also closely aligned with the Morena party, however, which has shown unwavering loyalty to former President López Obrador and to date to President Sheinbaum. Their profiles thus do not inspire the



promised confidence in a neutral process that will favor the selection of independent, qualified candidates. This outcome is not yet final, however, as it still depends on the promised secondary legislation that will define the minimum qualifications for judicial candidates.

New Beefed-Up Security Strategy

As expected, President Sheinbaum unveiled her new security strategy, which closely mirrors the successful approach she employed as Mayor of Mexico City. Like AMLO's strategy, it emphasizes prevention over confrontation, but it distinguishes itself with a stronger focus on addressing the root causes of crime, enhancing intelligence, and bolstering preventative measures. The strategy is built on three key pillars: targeting the ten cities responsible for a quarter of the nation's homicides, focusing on high-impact crimes like extortion and murder, and addressing high-risk youth. It is also built on increased collaboration between the federal government and state authorities, including granting the federal government the power to vet governor-appointed state security heads. On paper, the proposal is quite promising; however, its implementation faces significant challenges. Fiscal resources for an enhanced security strategy are limited, and adapting a Mexico City-focused approach to the rest of the country will be hard, given the stark differences between Mexico City and the targeted cities.

Budgetary Challenges

Finance Minister Rogelio Ramirez de la O faces increasing budgetary challenges, particularly with the task of reducing the fiscal deficit from approximately 6% of GDP to about 3.5% without raising taxes or triggering a recession. President Sheinbaum's decision to delay most infrastructure spending until 2026 offers some relief. Congress approved lowering the retirement age for Mexican citizens from 68 to 65, however, which will raise pension spending from its current 21% of total spending. We will see how Ramirez de la O addresses this challenge when the 2025 budget draft is released on November 15.

U.S.-Mexico Relations

The election of Donald Trump to be the next president of the United States suggest significant challenges ahead for the bilateral relationship. In the last month of his campaign, Trump made several promises, including:



- 1) Closing the border as one of his first orders of business.
- 2) Using the U.S. military to combat drug cartels, which he will declare terrorist organizations.
- 3) Imposing up to 500% tariffs, “whatever it takes,” to prevent Chinese cars made in Mexico from entering the U.S. market.
- 4) Making it difficult for any firm to relocate production to Mexico instead of the United States.
- 5) Imposing a 25% tariff on Mexican exports until Mexico fully cooperates on drug control and immigration, with the option to increase the tariff to 50%, 75%, or 100% if necessary.

Additionally, Trump has said he will exercise the so-called sunset clause in the USMCA that requires the Three Amigo countries to decide by the 6th anniversary of the agreement on July 1, 2026, whether to extend the agreement beyond its initial 16-year term. Trump has stated he intends to use the review to push for a renegotiation that would help the U.S. address the threat of electric vehicles coming from Mexico. Given Trump’s electoral mandate, which was largely driven by working class grievances, and with Republican control of the Senate, and likely the House, there will be few constraints on his ability to proceed with this policy agenda.

Finally, President Sheinbaum announced that U.S. Ambassador Salazar and all U.S. agencies will no longer be allowed to have direct contact with Mexican government ministers or the president. Instead, all communication with these government officials must go through the Foreign Ministry. Our contacts at the U.S. Embassy, however, suggest that this change has not affected the day-to-day operations of State Department officials based in Mexico. How the overall tenor and substance of the U.S.-Mexico diplomatic relationship will play out in a Trump Administration is yet to be seen. For her part, President Sheinbaum is seeking to publicly assure Mexicans that she anticipates a constructive relationship with the Trump Administration.



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The Monarch Global Strategies Team

Michael C. Camuñez

President & CEO
mcamunez@monarch-global.com
Los Angeles

James R. Jones

Chairman
jjones@monarch-global.com
Washington, D.C.

Luis Ricardo Rodríguez

Managing Partner
lrodriguez@monarch-global.com
Monterrey

Geoffrey G. Jones

CFO & SVP Development
gjones@monarch-global.com
Washington, D.C.

Pamela K. Starr

Senior Advisor
pstarr@monarch-global.com
Los Angeles

Juan Pablo López Rojas

Analyst
jplopez@monarch-global.com
Washington, D.C.

Pedro Niembro

Senior Director
pniembro@monarch-global.com
Mexico City

Juan Casillas

Senior Advisor
jcasillas@monarch-global.com
Mexico City

Gerardo de la Peña

Senior Advisor
gdelapena@monarch-global.com
Mexico City

Begoña Sánchez

Director
bsanchez@monarch-global.com
Monterrey

Patricio M. Martínez

Associate
pmartinez@monarch-global.com
Monterrey

Gabriel Cavazos

Senior Advisor
gcavazos@monarch-global.com
Monterrey / Mexico City