

RITCH MUELLER



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ENERGY AND INFRASTRUCTURE NEWSFLASH

SENER publishes Guidelines for the voluntary migration of independent power production permits

On April 16, 2026, the Ministry of Energy (*Secretaría de Energía*, “SENER”) published in the Federal Official Gazette (*Diario Oficial de la Federación*, “DOF”) the Resolution issuing the Guidelines for the voluntary migration of independent power production permits (the “Guidelines”).

The Guidelines are intended to regulate the procedure for the voluntary migration of independent power production permits (“PIE”), granted under the Electric Power Public Service Law (*Ley del Servicio Público de Energía Eléctrica*, “LSPEE”), as well as their associated contracts, to the generation framework established under the Electric Sector Law (*Ley del Sector Eléctrico*, “LSE”).

The Guidelines address, among other aspects, the following:

I. General Provisions

The Guidelines provide that the migration application must meet the following requirements: (i) the PIE permit must be in force at the time of submission; (ii) it must be filed with the National Energy Commission (*Comisión Nacional de Energía*, “CNE”) through the Electronic Filing Office (*Oficialía de Partes Electrónica*, “OPE”), in accordance with the form contained in the Sole Annex of the Guidelines; and (iii) it must be filed at any time prior to the beginning of the last year of validity of the corresponding PIE permit.

If a PIE permit reaches the end of its term without a migration application having been filed, it will not be eligible for the procedure provided in the Guidelines and must run its course under its original terms.

II. Migration Modalities

The Guidelines provide three migration modalities, among which the Applicant (the holder of the PIE permit) may choose. The chosen modality must be expressly indicated in the migration application and, if granted, may not be modified during its term. The modalities are as follows:

i. Modality A. Migration to electric power generation with an Electricity Coverage Contract (“PPA”) with the Federal Electricity Commission (Comisión Federal de Electricidad, “CFE”):

This migration modality consists of obtaining a generation permit to participate in the Wholesale Electricity Market (*Mercado Eléctrico Mayorista*, “MEM”), linked to one or more PPAs entered into with the CFE. Such contracts will establish the volume of electric power and Associated Products that CFE will acquire, which may not be less than 30% of the Power Plant’s total output, with the possibility of marketing the surplus in the MEM.

This modality comprises: (i) obtaining the generation permit for the MEM in accordance with the LSE; (ii) execution of the interconnection contract; (iii) entering into the PPAs with CFE; and (iv) the asset registry, the diagnosis of metering systems and, where applicable, fuel management, capacity reservation, or both, at least with respect to the committed volume.

ii. Modality B. Migration to the Long-Term Production (Producción a Largo Plazo, “PLP”) scheme:

This migration modality consists of migrating to a scheme in which the project is developed without capital contribution from the State, and in which all electric power and Associated Products generated are dedicated exclusively to CFE, which acquires them in accordance with the corresponding contract.

Under this modality, given that the Power Plant was developed under the previous scheme, CFE does not exercise the transfer of assets, unless the parties agree otherwise.

This modality comprises: (i) the granting of the generation permit; (ii) execution of the interconnection contract; (iii) entering into the PLP contract with CFE; and (iv) updating the asset registry, the diagnosis of metering systems and, where applicable, the supply of fuel, capacity reservation, or both.

iii. Modality C. Migration to electric power generation for the MEM:

This migration modality consists of obtaining a generation permit to participate directly in the MEM, which allows the permit holder to market all of its electric power and Associated Products in accordance with market rules.

This modality comprises comprehensive management by the permit holder, of the regulatory, operational, and commercial aspects required for its participation in the MEM, including obtaining the corresponding permit and compliance with all applicable requirements.

III. Migration Procedures

The Guidelines establish two Migration Procedures applicable according to the Migration Modality corresponding to each application. The procedures are as follows:

i. Procedure applicable to Modalities A and B:

1. Stage 1 – Initiation and scheduling:

The Applicant files the migration application with the CNE.

The CNE admits the application and, within a period of no more than 10 (ten) business days, issues the procedural schedule, considering the terms of existing permits and contracts, as well as the operational continuity of the Power Plant.

2. Stage 2 – Technical and contractual negotiation:

Working sessions are held, coordinated by SENER with CFE, the Applicant, and the competent technical authorities, to define contractual terms and validate technical operating conditions.

This stage concludes with the execution of the Migration Conditions Agreement (*Acuerdo de Condiciones de Migración “ACM”*), which must be notified to the CNE. The maximum period for this stage is 3 (three) months, extendable on one occasion by only up to half of the original period.

3. Stage 3 – Evaluation and resolution:

The CNE evaluates the application based on the ACM and issues the corresponding resolution, granting, where appropriate, the generation permit in accordance with the requested modality and the applicable schedule.

4. Stage 4 – Formalization:

The applicable contracts and legal and financial instruments are formalized in accordance with the procedural schedule, if not previously executed.

5. Stage 5 – Implementation and commencement of operations:

The interconnection contract is executed, the asset registry is updated before the National Energy Control Center (*Centro Nacional de Control de Energía “CENACE”*), registration in the MEM is granted, and commercial operation begins. This stage must be completed within a maximum period of 20 (twenty) business days.

Registration in the MEM may be granted prior to the conclusion of the diagnosis of metering systems and of the minimum operation tests that CENACE must conduct on the Power Plants, provided these are evidenced within a maximum period of 24 (twenty-four) months counted from the initial application.

ii. Procedure applicable to Modality C:

1. Stage 1 – Application:

Filing of the migration application with the CNE, which will either issue a request to cure or admit it.

2. Stage 2 – Permit processing:

Conduct of the procedure for granting the generation permit pursuant to the *General Administrative Provisions setting forth the legal, technical, and financial terms for requesting the grant and modification of permits for the generation and storage of electric power, as well as their term*, published in the DOF on October 23, 2025, or those that may amend or replace them (*Disposiciones administrativas de carácter general que establecen los términos legales, técnicos y financieros para solicitar el otorgamiento y la modificación de permisos de generación y almacenamiento de energía eléctrica, así como su vigencia*, the “Permits Provisions”).

3. Stage 3 – Resolution:

Conduct of the procedure for granting the generation permit pursuant to the Permits Provisions.

It is noted that, in accordance with the provisions of the Guidelines, it is the Applicant’s responsibility to comply, in a timely and proper manner, with the requirements, conditions, deadlines under the schedule of the Migration Procedure, and requests of the CNE or CENACE.

Non-compliance with such deadlines or procedural inactivity for more than 10 (ten) business days after their expiration will result in the termination of the Migration Procedure, without liability for the authority, which will be notified by the CNE through its OPE.

iii. Permits and Power Plants:

The CNE must expressly set forth in the permit title the authorized Migration Modality, as well as its terms, conditions, and deadlines. Where applicable, it must include the specific operational and commercial obligations agreed between the Applicant and CFE.

For the granting of the electric power generation permit, the modernization and, where applicable, rehabilitation actions performed or committed that ensure the reliable operation of the Power Plant must be evidenced. The term of the permit granted under the Migration Procedure may be of up to 15 (fifteen) years, in accordance with the modernization and, where applicable, rehabilitation program approved by the CNE.

Generation permits granted as a result of the Migration Procedure will not be extendable, as they relate to Power Plants associated with Legacy Figures migrating to the LSE regime. Non-compliance with the obligations provided in the permit will be sanctioned by the CNE in accordance with the LSE, the Regulation of the Electric Sector Law (*Reglamento de la Ley del Sector Eléctrico*), the Permits Provisions, and other applicable regulations.

Power Plants that hold permits in addition to the PIE permit must migrate their entire capacity and consolidate into a single generation permit under the LSE. The Migration Procedure may not entail increases in the Installed Capacity of the Power Plants.

IV. Transitory Provisions

The Guidelines became effective on April 16, 2026. Accordingly, those Applicants who, prior to their effective date, had applied for the migration of PIE permits under the LSPEE or the LSE and, where applicable, had ratified their filing before the CNE, may submit a migration application in accordance with the Guidelines.

PIE permits whose term expires within the year following the effective date of the Guidelines may submit the migration application at any time prior to their expiration.

Likewise, PIE permits that have been migrated to a generation permit under the LSE prior to the effective date of the Guidelines may access, on a one-time basis, the Migration Procedure provided therein, provided that they submit the corresponding application within the 20 (twenty) business days following the effective date of the Guidelines and comply with the applicable requirements.

We invite you to contact your usual contacts at Ritch Mueller to discuss any questions related to the matters described in this note.

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