

JANUARY 6, 2025

CONSTITUTIONAL REFORM TO ELIMINATE THE COORDINATED REGULATORY BODIES IN ENERGY MATTERS

On December 20, 2024, the Federal Executive Branch published in the Federal Official Gazette (“DOF”) the “*Decree whereby various provisions of the Political Constitution of the United Mexican States are reformed, added, and repealed, in organic simplification matters*” (“Decree”).

The Decree repeals or modifies constitutional provisions that granted constitutional status to six independent bodies, so as to dissolve them and transfer their functions to centralized federal administration agencies, on the premises that this constitutes an organic simplification to avoid duplication of functions and generate budgetary savings. The Decree affords the Federal Executive Branch greater control over the matters entrusted to these bodies.

Prior to the publication of the Decree, Article 28 of the Political Constitution of the United Mexican States (“Constitution”) provided that the Federal Executive Branch would have certain Coordinated Regulatory Bodies in Energy Matters, namely the Energy Regulatory Commission (“CRE”) and the National Hydrocarbons Commission (“CNH”), on the terms determined by law. The Decree modified the foregoing, providing that “*the Federal Executive Branch, through the agency responsible for conducting and supervising Mexico's energy policy, will have the attributions to carry out the technical and economic regulation, as well as the sanctioning authority in energy and hydrocarbons matters, on the terms determined by law*”. As a result, the functions of the CRE and CNH will be assumed by the Ministry of Energy (“SENER”).

Unlike the other four bodies extinguished by the Decree(1), the Constitution did not contain provisions regarding the autonomy or independence of the CRE and CNH. It is the Law of the Coordinated Regulatory Bodies in Energy Matters (*Ley de los Órganos Reguladores Coordinados en Materia Energética*), published in the DOF on August 11, 2014, that established the technical, operational, and management autonomy of both Commissions and their coordination with SENER so that their acts and resolutions are issued in accordance with the public policies of the Federal Executive Branch. Therefore, Congress could have modified or repealed the aforementioned law regarding the autonomy of the CRE and CNH without having to amend the Constitution.

Save for certain provisions of the Decree on matters of economic competition (for which no set period is established for their entry into effect), the Decree came into force on December 21, 2024, and established that, within a period of 90 calendar days ending on March 21, 2025, the Federal Congress must carry out the necessary adjustments to secondary legislation to comply with the Decree. Once the adjustments to the secondary legislation come into force, the CRE and CNH will be considered extinct. Meanwhile, both Commissions will continue to function, and their resolutions and legal acts adopted before the entry into force of the aforementioned secondary legislation will continue to be considered valid.

We will have to wait for Congress to pass the initiatives to reform or repeal, as the case may be, the Law of the Coordinated Regulatory Bodies in Energy Matters, the Electricity Industry Law (*Ley de la Industria Eléctrica*), the Hydrocarbons Law (*Ley de Hidrocarburos*), and other applicable regulations, to understand the extent of, and evaluate the implications of, the further changes to the legal framework required to further implement the elimination of the CRE and CNH, and the incorporation of their functions into SENER.

Finally, it is important to mention that the transfer of personnel and office spaces and other work infrastructure between CRE and CNH and SENER, will likely have an adverse impact on work teams, possibly leading to the departure of trained personnel and a delay in the resolution of pending matters, which may impact those users with pending matters at CRE and CNH.

We invite you to reach out to your usual contacts at Ritch Mueller to discuss any particular situation regarding the points discussed in this Newsflash.

(1) The Federal Economic Competition Commission (COFECE), the Federal Telecommunications Institute (IFT), the National Council for the Evaluation of Social Development Policy (CONEVAL), and the National Institute for Transparency, Access to Information and Personal Data Protection (INAI). Regarding COFECE and IFT, please refer to our Newsflash dated December 23, 2024 (<https://www.ritch.com.mx/en/read/1010/newsflash-reforma-constitucional-mediante-la-cual-desaparecen-los-organismos-constitucionales-autonomos-cofece-e-ift>)

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