

Wind Energy in Mexico Legal Framework: A Status Report

Alejandra Cruz Ross

Wind Power Projects on US-Mexico border:
Regulatory Framework, Transmission, Challenges and
Opportunities

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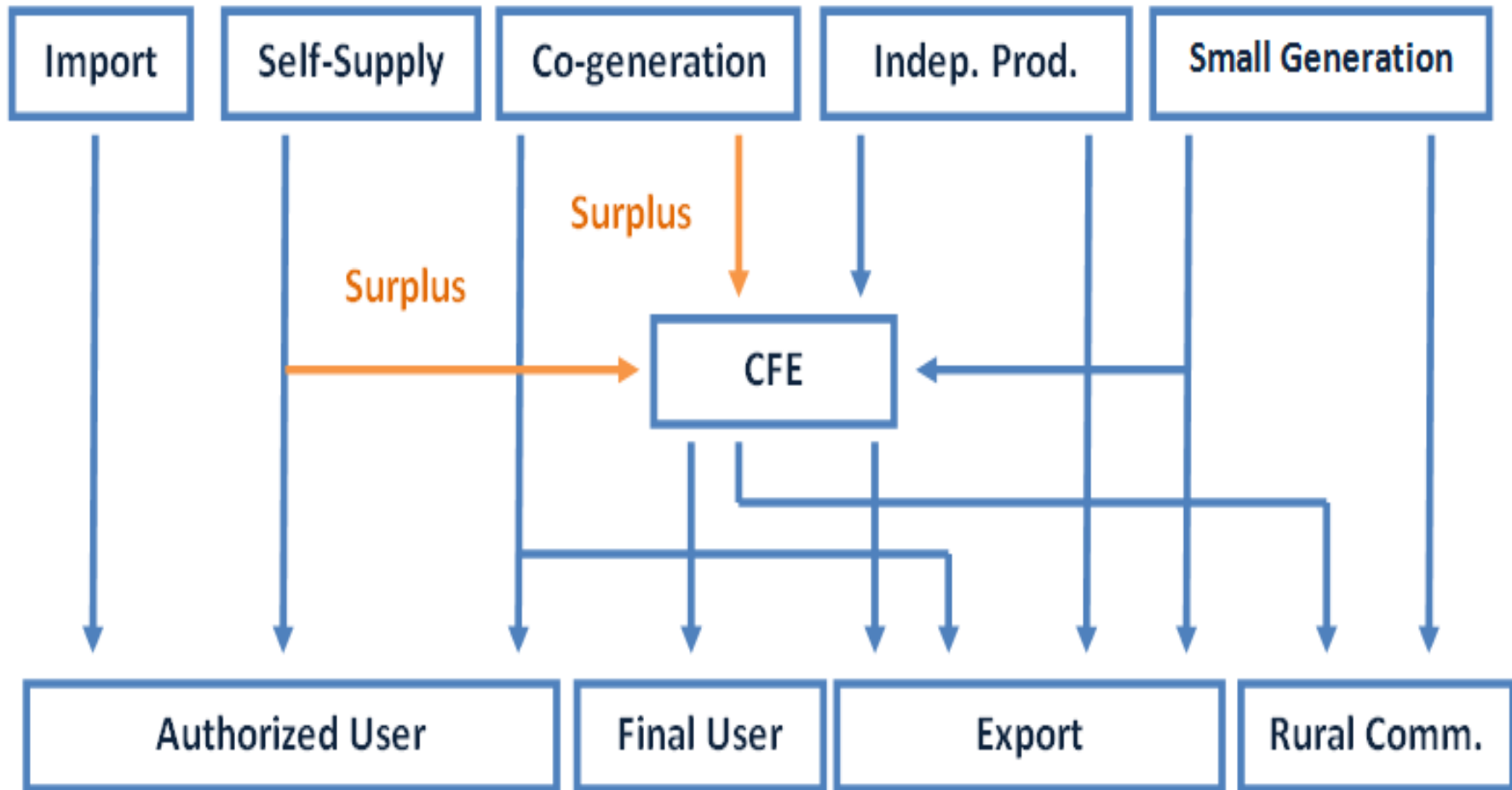
Agenda

- Background
- Applicable Federal Regulation to Electricity
- Siting Considerations
- What's next?

Background

- *"the generation, transmission, transformation, distribution and supply of electric power for the purposes of providing public service is vested exclusively in the Nation"*
- 1992/1993: amendments – permitting scheme
- 2001: interconnection and transmission agreements modifications
- 2004: tax incentive
- 2008/2009: new regulatory framework for renewable energy

Concepts Excluded from “Public Service”

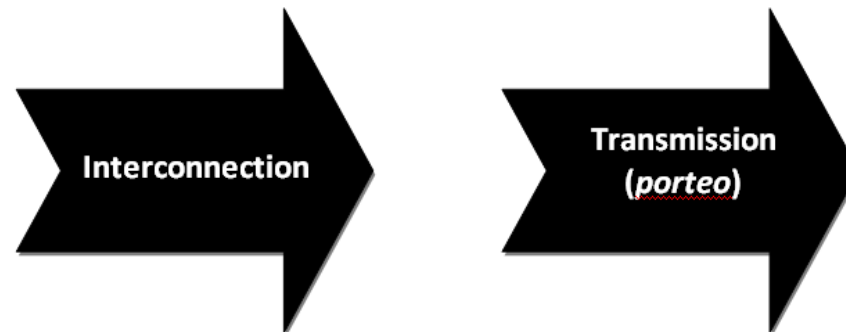


Export Permit & Transmission

- Permit subject to:
 - Adequate transmission capacity
 - Executed sales contract
 - Does not represent a burden to CFE's infrastructure
 - “Emergency Situation” Covenant
- Infrastructure:
 - CFE cannot invest in transmission infrastructure for export purposes
 - Possible uncertainty regarding transmission costs

Contracts for Renewable Energy Sources

- Interconnection Contract
- Transmission Service Contract
- Contract to Determine Transmission Fees



New Framework: Highlights

- Development of Renewable Energy and Energy Transition Financing Act (November 2008)
 - National Strategy for the Development of Renewable and Energy Transition Financing (July 2009)
 - Specific regulations (August 2009)
 - Renewable Energies Special Program (August 2009)

Environmental Considerations

- Ecological Equilibrium and Environmental Protection Act (EIS)
- Sustainable Development of Forestry Act
- Wildlife Act
- SEMARNAT's:
 - NOM-059 (native species)
 - NOM-081 (noise)
 - NOM-138 (soil)



Land Rights Considerations

- Ownership: no restrictions except for foreigners in the Prohibited Zone (100 kms. – 61 miles – of Mexico’s borders or 50 kms. – 31 miles – of the shores of the country)
- Leasing & right of use (*usufructo*) restrictions
- The *ejido* issue: investors should be exceedingly careful when dealing with *ejido* land

Societal Considerations

- The new Renewable Energy Act provides for
 - Affected communities participation (consultation)
 - Lease payments at least twice a year
 - Promotion of social development
- Besides from these provisions, the Social Development Act (2004) had already established the concept of social participation as the right of the people to participate in the evaluation of government policies, strategies and programs

Archeological Sites Considerations

- The Archeological, Artistic and Historic Monuments and Sites Act provides that any works performed near or in the premises of archeological monuments and sites must be specifically authorized by a INAH officer
- Without this written authorization, which generally establishes the monuments and sites' physical or aesthetic damages, the INAH can officially halt any ongoing construction

Tax Incentive

- Starting December 2004, investments in “environmentally friendly” technology, including renewable energy technology could benefit from accelerated depreciation.
- Investors are thus allowed to deduct 100% of the investment after 1 year of operation (vs. 5%, thus 20 years...) if the equipment is in use for at least 5 years

What's Next?

- Revised interconnection and transmission contracts for renewable energy
- SEMARNAT's NOM 151?
- Operational rules for the Development of Renewable Energy and Energy Transition Financing Fund
- Program's specific action items, recipients and calendar of activities

Thank you



alejandra.cruz@austin.utexas.edu

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