



MEMO

To: Public
From: I-REC Standard Foundation
Date: March 11, 2021
Subject: Change to Mexican Issuance Criteria

1. Introduction

In October 2017, the International REC Standard Foundation's (I-REC Standard) Board decided that I-RECs could only be issued in Mexico from projects commissioned prior to August 2014 since these projects do not qualify for (and thus do not conflict with) the local clean energy certificate scheme CEL. During the year 2020, the I-REC Standard Foundation was approached by generators willing to register production devices commissioned after August 2014 too. This motivated a review of the Mexican legal framework with the support of market participants active in the local electricity market.

2. Why are generators interested in I-RECs for post-2014 devices?

The main reason for the increasing interest to use I-RECs is its growing demand from electricity consumers that want to actively procure renewable electricity supply beyond compliance obligations. I-REC certificates have a global reach since they are recognized by several consumer claim standards such as GHGP, CDP, RE100 and others. In 2020, over 1,8 million certificates were issued in Mexico, which represents a growth of over 800% compared to 2019.

3. Results legal review

The main finding is that CEL's mandatory requirements apply to Obligated Participants (Suppliers, Qualified Users that are Market Participants, End Users with self-supply contracts, as well as holders of legacy contracts) and not to clean generators. Renewable generators, in turn, have the right to issue CELs by registering their plants in the CEL registry (S-CEL) administrated by the regulator (CRE). Please see Annex 1 and Annex 2 with the legal analysis provided by market participants for this review.

The risk of I-RECs interfering with the national system is considered non-significant as I-RECs attend exclusively voluntary demand for renewable certificates.

4. New situation

Production devices commissioned after August 2014 are now eligible for I-RECs issuance provided they can show proof they are not in the S-CEL registry (to avoid double issuance of certificates).

Among others, the I-REC Standard expects registration from:

- Large generators that own several renewable devices with which they can cover their present and future contractual CELs obligations and wish to issue I-RECs for some of their plants under development.
- Small generators owning distributed generation (DG) devices (less than 0.5 MW) that have not applied for CELs and would like to issue I-RECs.



The I-REC Standard is pleased with this important step that enables more production device owners to request I-RECs for their clients and other market participants.



Annex 1



ACCIONA
Juan Salvador Agraz No. 61, P14,
Las Tinajas, Alcaldía de Cuajimalpa,
05370 Ciudad de México.
www.accionamx.com

Ciudad de México, a 26 de octubre de 2020

Benjamín Herrera Vergara
Director General de América Latina
The International REC Standard

Subject: Analysis of the obligation of Clean
Energy Certificates in Mexico,

We refer to the legal, regulatory and business implications derived from the obligations / rights established by Mexican legislation regarding Clean Energy Certificates ("CELs"). The most relevant points are:

- The obligation established by Mexican legislation is to acquire CELs, not to generate them.
- The CELs requirements are directed to the electrical energy consumed.
- Clean Generators that have come into operation after August 11, 2014 are not among the obligated participants.
 - Registration in the Clean Energy Obligations and Certificates Management System ("S-CEL") is mandatory only for i) obligated participants; ii) Clean Generators that wish to be granted CELs; iii) Clean Generators and Suppliers that represent the Distributed Clean Generation; and, iv) voluntary entities.
 - Sanctions will be imposed by the Energy Regulatory Commission ("CRE") only for non-compliance with the acquisition of CELs by the obligated participants.

ACCIONA Juan Salvador Agraz, No. 61 P. 14, Las Tinajas, Alcaldía de Cuajimalpa, 05370 Ciudad de México.



ACCIONA
Juan Salvador Agraz No. 61, P14,
Las Tinajas, Alcaldía de Cuajimalpa,
05370 Ciudad de México.
www.accionamx.com

I. REGULATORY FRAMEWORK

The CELs are the titles issued by the CRE to certify the production of a certain amount of electrical energy from Clean Energies¹ and which serves to meet the requirements associated with the consumption of the load centers. The rights and obligations of CELs are regulated in different federal laws, provisions, criteria and guidelines.

Specifically, article 7, section I, of the “Energy Transition Law” establishes that, the obligations to acquire CELs must be fulfilled by: Suppliers, Qualified Users participating in the Wholesale Electricity Market and holders of Legacy Interconnection Contracts . The mentioned article says:

“Article 7.- The specific modalities with which the members of the Electricity Industry and Qualified Users must contribute to the fulfillment of the Country Goals will be detailed in a transparent and coordinated manner by the Secretariat and the CRE, taking into account the following elements:

I. The Secretariat will be responsible for establishing, in conditions of technical and economic viability, as well as access to financing, in a transparent and non-discriminatory manner, the obligations for the acquisition of Clean Energy Certificates that the Suppliers, the Qualified Users participating in the Wholesale Electricity Market and the holders of the Legacy Interconnection Contracts must comply annually on an individual basis and that together they promote the fulfillment of the Goals established in the Strategy;
...”

Likewise, specifically in article 3 section VIII and XI of the “Guidelines that establish the criteria for the granting of Clean Energy Certificates and the requirements for their acquisition”, the Obligatory Participants are defined, and the CEL Requirements , as follows:

“3. In addition to the definitions of article 3 of the Electricity Industry Law, and article 2 of the Regulation of the Electricity Industry Law, for the purposes of these guidelines it will be understood as:

¹ According to the LIE the Clean Energies are: wind; solar radiation; ocean energy; heat from geothermal reservoirs; bioenergetics; calorific value of methane; use of hydrogen; hydroelectric; nuclear power; agricultural runoff or urban solid waste; efficient cogeneration; sugar mills; thermal power plants with geological capture and storage processes or carbon dioxide biosequestration; technologies considered low carbon emissions according to international standards.



ACCIONA
Juan Salvador Agraz No. 61, P14,
Las Tinajas, Alcaldía de Cuajimalpa,
05370 Ciudad de México.
www.accionamx.com

VIII. Obligated Participants: Suppliers, Qualified Users, Market Participants and End Users who receive electricity from the isolated supply, as well as the holders of Legacy Interconnection Contracts that include Load Centers or Charging Points whose electrical energy does not come from in its entirety of a Clean Power Plant.

XI. CEL Requirements: Proportion of the total electrical energy consumed during a Obligation Period in the Load Centers or Charging Points that receive Electrical Supply or that receive electrical energy by isolated supply, or, of the portion of electrical energy consumed during a Obligation Period in the Load Centers or Load Points included in a Legacy Interconnection Contract that has been supplied from sources that are not considered Clean Energy by the Power Plants contemplated in the same contract, which must be accredited by the Participants Obligated by the Liquidation of CEL.

...”

Therefore, we can observe that, within the obligated subjects, there are not Clean and / or Renewable Generators, as well as, the CEL Requirements are only for the energy consumed, not for the energy generated.

The same guidelines establish that Clean Generators that represent Clean Power Plants that have entered into operation after August 11, 2014, will be entitled to receive CELs for a period of up to twenty years.

On the other hand and simultaneously, the "General Administrative Provisions for the Operation of the Certificate Management System and Compliance with Clean Energy Obligations" are in force, which aim to regulate the operation of the S-CEL and establish the procedure by which the CELs will be issued and granted, as well as their settlement and voluntary cancellation. It is important to mention that the S-CEL is the only means by which these movements can be made.

According to article 10 of the Provisions, only the following are obliged to register with the S-CEL: i) Obligated Participants; ii) Clean Generators that wish to be granted CELs; iii) Suppliers that represent Distributed Clean Generation and that wish to be granted CELs; and iv) Voluntary Entities that wish to voluntarily acquire, sell or cancel CELs.

Lastly, Mexican legislation has the "Criteria for the Imposition of Sanctions that Derive from Non-compliance with Obligations Regarding Clean Energy", the objective of these Criteria is to determine the imposition of sanctions, which may only be imposed on Obligated Participants.

Here is a flow chart of the life cycle of CELs:

ACCIONA Juan Salvador Agraz, No. 61 P. 14, Las Tinajas, Alcaldía de Cuajimalpa, 05370 Ciudad de México.



ACCIONA
Juan Salvador Agraz No. 61, P14,
Las Tinajas, Alcaldía de Cuajimalpa,
05370 Ciudad de México.
www.accionamx.com



Elaborado por: Enel

II. Conclusions

Derived from the overall analysis, and from the harmonious interpretation of the aforementioned legislation, we can conclude that the obligation established by Mexican legislation is to acquire CELs depending on the energy consumed, and not on their issuance.

Therefore, renewable projects under the LIE may choose to generate CELs and in case they choose not to generate them, there will be no sanction. It is important to mention that, if the generators have signed Coverage Contracts in which they are obliged to sell CELs, they will have to comply with these obligations, however, these will be of a civil nature.

Acciona currently has signed contracts through which it is obliged to buy and sell CELs. With the generation of CELs that it has in its plants in operation, it can cover these private obligations and can choose not to generate CELs for its plants under development and construction.

ACCIONA Juan Salvador Agraz, No. 61 P. 14, Las Tinajas, Alcaldía de Cuajimalpa, 05370 Ciudad de México.



Annex 2

Ampere

Note: Clean Energy Certificates in Mexico.

November 11th, 2020.

Chris Pooley

I-REC Code Manager

According to different meetings with the I-REC Standard (I-REC) team, and with motive that those Generation Power Plants over 0.5 MW can be considered eligible to the instruments provided by the I-REC, the following will be considered:

1. The guidelines that establish the criteria for the conferment of Clean Energy Certificates and the requirements for their acquisition (the "Guidelines"), published in the Mexican Official Diary on October 31st, 2014, has as an objective to establish the definitions and criteria for the conferment of Clean Energy Certificates ("CEL", by its Spanish acronym) and for the establishment of the requirements for their acquisition.
2. Guideline number 4 establishes that "... Will have the right to obtain CEL for a twenty years period those Clean Generators that represent:
 - I. *Those Generation Power Plants that start operations after August 11th, 2014.*
 - II. *Those Production devices prior to the Energy Reform that generate energy from Clean Energy that have started operating before August 11th, 2014, provided they have increased their Clean Energy generation. In this case, the twenty years period will begin at the start of operations of the project that results in an increase of the generation, and the number of CEL will correspond to the Clean Energy that is generated in excess of the higher of the following values:*
 - a) *The average value of the Clean Energy generated by the Generation Power Plant during the years 2012, 2013 and 2014, including only the period that the Generation Power Plant has operated, in the calculation, and*
 - b) *The average value of the Clean Energy generated by the Generation Power Plant during the last ten years prior to the Project, including only the period that the Generation Power Plant has operated in the calculation, and*

Paseo de la Reforma 243-19 Col. Cuauhtémoc
C.P. 06500 Ciudad de México
+52 (55) 8851 2200
contacto@ampere.com



Ammper

- III. *The Generation Power Plants that have a capacity that has been excluded from an Interconnection Contract prior to the Energy Reform, in order to be included in an Interconnection Contract in terms of the new Law, during the period in which the contract holder has the right to include said capacity in the Interconnection Contract prior to the Energy Reform. In this case, the number of CEL will correspond to the Clean Energy that the Generation Power Plant generates through said capacity.*
3. Guideline number 5 establishes that *"... those Clean Generators referred to in Guideline 4 above, will have the right to receive one CEL per each Megawatt-hour generated without using fossil fuels in the Clean Energy Generation Power Plants that they represent."*
 4. *That the Royal Spanish Academy establishes that a "Right" is "the faculty of doing or demanding everything that the law or authority establishes in our favour, or that the owner of something allows us in it."*

Given the above, the following statement can be concluded:

The obtention of CEL on behalf of the Clean Generators is a right but not an obligation that they have within the Wholesale Electricity Market in Mexico, so in that sense, the Clean Generators can opt for not receiving any CEL and have other incentives available in national or international markets.

Paseo de la Reforma 243-19 Col. Cuauhtémoc
C.P. 06500 Ciudad de México
+52 (55) 8851 2200
contacto@ammper.com

DISCLAIMER: This note does not provide specific nor constitutes legal advice. It is intended solely for the use of the I-REC Standard. A client or any other person should not rely on the contents of this document as legal counsel or advice