

The Mexico Option: Step-by-Step Reclaiming

In the previous section, we mentioned that Mexico provides a living example of a country that is determined to not only resist neoliberal policy but to take the lead on charting a new pro-public course. Of course, Indonesia is not Mexico, and the balance of political forces are currently less favorable in Indonesia than has recently been the case in Mexico. On the other hand, Indonesia's march towards privatisation and liberalisation has been a lot slower. IPP generated power currently stands at around 26% of total supply. In Mexico, IPP generated power reached fairly high levels, but recent government actions are expected to see the share of IPP-generated power decrease in the coming years.

The political commitment to reclaim energy began in October 2017, when the Movement for National Regeneration (*Movimiento de Regeneración Nacional* or MORENA) party launched its *2018-2024 Nation* project, which included the need to strengthen the national electricity and oil utilities. The “to save this sector (...) we must financially strengthen the power utility CFE (*Comisión Federal de Electricidad*) and the public oil company, PEMEX (*Petróleos Mexicanos*) [and] consolidate them at the operational level in order to reduce dependence on the outside and allow energy to become again one of the pillars of development.”¹

In July 2018 Andrés Manuel López Obrador, (known as “AMLO”) began his six-year term as the President of Mexico. His MORENA party swept to victory in the general election of July 1st, 2018. MORENA's margin of victory – 53% in the first round – was decisive.² During his campaign, AMLO said he planned to restore Mexico's energy sovereignty. AMLO's government immediately took measures to change the direction of the country's neoliberal energy policy pursued by the previous president, Enrique Peña Nieto. In 2013-14, Peña Nieto's government made more than 20 legislative changes and three amendments to the Mexican Constitution that allowed foreign companies to own and invest in the country's energy resources.³ The reforms aimed break up both CFE and PEMEX, and to invite IPPs in wind and solar multinationals to set up operations in Mexico, where they would benefit from 25-year PPAs.

Mexico's Energy Reclaiming Timeline

It is not possible here to provide a detailed account of Mexico's efforts to halt and reverse the role played by IPPs in Mexico's electricity sector. But the most important moments occurred as follows:

March 2019: the scheduled renewable energy auctions were postponed, thus imposing an indefinite moratorium on new IPP wind and solar projects.

¹ AMLO's official website, “Proyecto Nacional 2018-2024”, November 20, 2017, available at: <https://lopezobrador.org.mx>

² <https://www.bbc.com/mundo/noticias-america-latina-44678664>

³ <https://www.bakerinstitute.org/media/files/files/b7ccc9ca/mex-pub-mextradeamlo-041919.pdf>

July 2020: AMLO sent a memorandum to *Public Servants and Members of Energy Sector Regulatory Bodies*.⁴ Referring to Peña Nieto's reform as a "policy of pillage," AMLO wrote, "We soon learned the result of this robbery and its corresponding deception: nothing was gained by the nation, everything was translated into lucrative business for private companies and corrupt politicians... It is time to correct the course of the policy of surrender that has been imposed on the energy sector."⁵ He reiterated that PEMEX and CFE were "strategic and indispensable for the independent and sovereign development of our nation." This, he wrote, "translates into not continuing with the privatization of the energy sector" and "putting a stop to juicy private business... The granting of subsidies of any kind to private companies in the energy sector should be abolished."⁶ CFE, said AMLO, "was left almost in ruins: indebted, with its productive capacities reduced [and] subject to regulation that privileges individuals in the implementation of the energy reform."⁷

October 2020: Energy Minister Rocio Nahle García gave a 3-hour presentation to Mexico's Senate that laid bare how the Peña Nieto reforms had damaged Mexico's electricity sector.⁸ She pointed out that the country's maximum demand for electricity has never exceeded 47 Gigawatt hours (GWh) on any given day. But, following Peña Nieto's orders, the Regulatory Commission (CRE) had granted enough permits to private generators to increase supply to 84 GWh. Nahle reported that "take or pay" PPAs with IPPs had thrown CFE into a death spiral of financial distress, and burdened the utility with considerable system costs incurred as a result of the need for transmission and distribution systems to integrate wind and solar energy.⁹ "This is a clear lack of planning in previous governments" that, she said, revealed "enormous regulatory gaps in the [electricity] sector."¹⁰

⁴ Memorandum, from Andres Manuel Lopez Obrador, President of Mexico to Public Servants and Members of Energy Sector Regulatory Bodies.

<https://www.bnamericas.com/en/analysis/amlo-memo-seen-as-threat-to-investment-in-mexicos-energy-sector>

⁵ Memorandum, from Andres Manuel Lopez Obrador, President of Mexico to Public Servants and Members of Energy Sector Regulatory Bodies.

<https://www.bnamericas.com/en/analysis/amlo-memo-seen-as-threat-to-investment-in-mexicos-energy-sector>

⁶ "Both in oil extraction and refining, as well as in electric power generation, partnerships with private investors will not be ruled out, as long as they are complementary actions and do not affect the national interest."

⁷ Memorandum, from Andres Manuel Lopez Obrador, President of Mexico to Public Servants and Members of Energy Sector Regulatory Bodies.

<https://www.bnamericas.com/en/analysis/amlo-memo-seen-as-threat-to-investment-in-mexicos-energy-sector>

⁸ Transcript of Minister Nahle's speech (in Spanish)

<http://comunicacion.senado.gob.mx/index.php/informacion/versiones/49520-presentacion-de-la-ingeniera-rocio-nahle-garcia-secretaria-de-energia-al-comparecer-ante-la-comision-de-energia-del-senado-de-la-republica-en-el-marco-de-la-glosa-del-segundo-informe-de-gobierno.html>. See also:

<https://www.youtube.com/watch?v=FVUSWgIcvxc&feature=youtu.be> (also in Spanish)

⁹ For more information on Mexico's struggle to regain its energy sovereignty, see: Sean Sweeney, Mexico's Wall of Resistance: Why AMLO's Fight for Energy Sovereignty Needs Our Support, New Labor Forum, May 2021, <https://newlaborforum.cuny.edu/2021/05/17/mexicos-wall-of-resistance-why-amlos-fight-for-energy-sovereignty-needs-our-support/>

¹⁰ Transcript of Minister Nahle's speech (in Spanish) <https://tinyurl.com/4wu8uzed> See also:

<https://www.youtube.com/watch?v=FVUSWgIcvxc&feature=youtu.be> (also in Spanish). See also:

<https://tinyurl.com/4puscep4>

July 2020: the Energy Ministry (SENER) released the government's *Sectorial Energy Program (PROSENER) 2020-2024*. The Program identified public financing of renewable energy as an option, and new capacity could be deployed by the energy utility, CFE.¹¹ Nahle said, "We want to do this through CFE. Private companies install, and then they leave. CFE can carry out the installations and provide maintenance."¹²

February 2021: AMLO sent to the Congress a bill to reform the Electricity Industry Law to give priority to the dispatch of electricity produced by the State through the CFE. The bill proposed to review the PPA system and the role of private energy companies which "have caused great damage to CFE's assets" and to eliminate the obligation to purchase energy through auctions." The goal of the bill, said AMLO, is to put an end to "years of plundering."¹³ AMLO told Congress that Peña Nieto had "granted full legal coverage to the neoliberal policy that imposed a privatization process to weaken and [then] transfer public companies to private individual

April 2021: Mexico canceled 125 licenses for private oil trading companies.¹⁴

April 2023: The Mexican Government signed an agreement to purchase 13 power generation plants (roughly 6.5 GW of mostly gas-fired capacity) from the Spanish multinational Iberdrola.¹⁵ With this measure, said AMLO, "CFE becomes the majority [generation] company. If we add to this that final plants are being built, hydroelectric plants are being rehabilitated with new turbines, all under the CFE, we can affirm that the Mexican state will maintain around 65 per cent of all energy generation at the end of the six-year term [October 2024]."¹⁶

December 2023: The Mexican Ministry of Energy issued an expropriation of a French-owned hydrogen production plant located inside the Tula Refinery on the state of Hidalgo. The move was described as one designed to "benefit Pemex and the state run CFE, making it more difficult for the companies to invest directly on the sector... the technology of the Hydrogen Generation Plant will allow Pemex to develop new facilities that will allow for production of clean energies."¹⁷

June 2024: MORENA presidential candidate Claudia Sheinbaum Pardo won the general election with a first-round vote of over 61%, more than 33% higher than the second-placed candidate.

¹¹ Energy Ministry ("SENER") *Sectorial Energy Program (PROSENER) 2020-2024*, English summary: <https://www.whitecase.com/publications/alert/energy-sector-program-2020-2024>

¹² Energy Ministry ("SENER") *Sectorial Energy Program (PROSENER) 2020-2024*, English summary: <https://www.whitecase.com/publications/alert/energy-sector-program-2020-2024>

¹³ La Jornada, Feb 1, 2021, AMLO sends initiative that gives priority to CFE in electricity dispatching, <https://www.jornada.com.mx/notas/2021/02/01/politica/envia-amlo-al-congreso-iniciativa-de-reforma-a-ley-de-la-industria-electrica/>

¹⁴ "CRE cancela 139 permisos a privados por no iniciar operaciones", *Oil & Gas Magazine*, April 29, 2021, available at: www.oilandgasmagazine.com.mx.

¹⁵ <https://www.tuedglobal.org/bulletins/defying-u-s-mexicos-second-nationalisation-of-electricity-moves-forward>

¹⁶ <https://www.youtube.com/watch?v=Ob2KF0zuZWw>

¹⁷ <https://www.clydeco.com/en/insights/2024/01/mexican-government-carries-out-expropriation-of-hy>

Sheinbaum Pardo has committed to install 13GW of renewable energy before 2030, but it will limit the presence of IPPs and continue to grow state-owned and controlled capacity

[CRE]

November 2024: President Claudia Sheinbaum Pardo formalized constitutional changes that allowed CFE and PEMEX to recover their status as state-owned public companies President Claudia Sheinbaum Pardo said the reform “gives back to the people the companies that have always belonged to the people of Mexico and that in 2013 were privatized, because by transforming Pemex and CFE into state enterprises; in reality they ceased to be public and became private.”¹⁸

The process of reclaiming provoked an angry response from the US, Canada and the EU. The Trump government threatened to file legal charges against Mexico under the Investor State Dispute Mechanism (ISDM) under NAFTA. The ISDM gives corporations the right to sue governments for lost profits in the event of any change in domestic policy that might reduce or eradicate those returns.¹⁹ A January 11, 2021, letter to the Mexican government stated that AMLO’s actions “affect several U.S.-backed private sector projects in the energy sector; these measures would negatively affect investments of hundreds of millions of dollars.” They complained that Mexican energy regulators have been instructed to “block permits for private sector energy projects and exercise their regulatory authority to favor state-owned companies. If this is true, it would be deeply troubling and raise concerns about Mexico’s commitments under the [new NAFTA treaty] T-MEC.”²⁰,

Mexico has shown that it is possible to reverse neoliberal reforms, and ride out both domestic and international pressure to continue with a policy of privatisation and “green structural adjustment.”

¹⁸ <https://iclnoticias.com.br/governo-sheinbaum-nacionaliza-energia-mexico/>

¹⁹ <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=A3E8ABFB-D9FC-40AD-9E35-F970430E3E47>. Of this writing, no ISDM cases have been filed as a result of the Energy Ministry’s actions. See: <https://investmentpolicy.unctad.org/investment-dispute-settlement/country/136/mexico/investor>. AMLO, however, seems less concerned: “There are matters that are not part of the treaty [UMSCA] because they have to do with Mexico’s sovereign domain, as is the case of the energy sector. Despite the fact that the intention was to integrate oil issues, to involve Mexican oil in the treaty, both the government of Canada and the government of the United States were convinced that, in this matter, we adhere to the Constitution, to Article 27, on the exclusive domain of the nation over these natural resources and this approach was respected.” <https://lopezobrador.org.mx/2020/11/11/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-415/>

²⁰ EU reclama discriminación energética de México, Energía a Debate, Jan 15, 2021. <https://www.energiaadebate.com/regulacion/eu-reclama-discriminacion-energetica-de-mexico/>