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Constitutional Change Allows PEMEX Flexibility to Sell Electricity

by LADB Staff
Category/Department: Mexico
Published: 2006-01-04

In mid-December, the Senate approved changes to Article 27 of the Mexico Constitution, giving the state-run oil company PEMEX greater flexibility in the production of electrical power. The initiative, which also made changes to Article 3 of the PEMEX Basic Law (Ley Organica de PEMEX), opens the door for PEMEX to sell any excess electricity to Mexico's two electrical utility companies, the Comision Federal de Electricidad (CFE) and Compania Luz y Fuerza del Centro (LFC).

PEMEX received permission to produce electricity in 2003 following a unanimous vote in the Senate (see SourceMex, 2003-03-17). The latest changes were approved by a vote of 81-28, with the entire delegations from the center-right Partido Accion Nacional (PAN), the Partido Verde Ecologista Mexicano (PVEM), and a majority of the former governing Partido Revolucionario Institucional (PRI) supporting the measure. One independent senator also voted in favor of the initiative. The center-left Partido de la Revolucion Democratica (PRD) and a handful of PRI dissidents opposed the changes.

The measure incorporates several recommendations from the Chamber of Deputies, which modified an earlier version of the Senate bill. Initiative intended to improve PEMEX efficiency Supporters said the initiative represents another effort to create a more efficient energy sector in Mexico by allowing PEMEX to construct plants that make use of cogeneration, a process that involves the simultaneous production of electricity, hot water, and/or steam from a single fuel.

Texas-based Cogeneration Technologies said that a typical power plant wastes up to 75% of the original fuel through heat loss, line transmission losses, and other inefficiencies. "A cogeneration or trigeneration plant 'captures' the wasted heat energy that would have been lost and essentially triples the energy efficiencies of ordinary power plants," the company said on its Web site.

The process is endorsed by the Instituto de Investigacion Electrica (IIE), a research center financed by the Mexican government. "The IIE is encouraging the Mexican oil company to recover residual heat generated during its petroleum producing and refining processes, otherwise wasted to the atmosphere, to meet part of its energy demand," said Innovation Mexico, an electronic journal that reports on scientific and technological advances in Mexico.

Proponents tout benefits
Sen. Hector Larios, PAN coordinator in the upper house, said the changes would make PEMEX a more efficient company. "We do not see any reason not to make use of all the energy that we are wasting, said Sen. Larios.

A chief proponent of the legislation, Sen. Demetrio Sodi de la Tijera, said the measure could provide some financial benefits for financially strapped PEMEX, which would form partnerships with
the private sector to help increase the supply of electricity in Mexico. "This initiative creates the possibility for PEMEX to use complementary capital to generate electricity for its own use or to sell to other public utilities," said Sodi.

Sodi, who recently became an independent after leaving the PRD, applauded the decision of Congress to finally move on this initiative. "We have been discussing this measure for 13 years," said Sodi.

Cesar Camacho, a columnist for the Mexico City daily business newspaper El Economista, said the Constitution had created many obstacles for PEMEX. "[The company] was required to make internal use of any power produced at its plants," said Camacho. "The approval of this initiative allows PEMEX to sell all excess energy once its needs are met." PVEM Sen. Gloria Lavara said her party supported the measure because it promotes a reduction in the cost of production, an increase in operational efficiency for PEMEX, and a more optimal use of natural resources.

Supporters say Mexico will also reap some environmental benefits from the initiative, as it will promote the cogeneration process, which is a more environmentally friendly method of producing electricity. "We would be reducing harmful emissions, particularly those that create a greenhouse effect," said Camacho.

**Critics worry about parallel market**

Critics say changes promote privatization, parallel market The PRD delegation and three PRI senators voted against the measure, arguing that this was another step toward the privatization of Mexico's energy sector.

Sen. Manuel Bartlett Diaz said he was especially concerned about a provision that would allow PEMEX to form partnerships with foreign companies to produce electricity. Bartlett has consistently opposed any efforts to open the gas, oil, and electrical sectors to private interests, at times clashing with his own party (see SourceMex, 2002-07-13, 2004-04-21, and 2005-03-16). "PEMEX has a vast potential to generate electrical energy, which we would be ceding to foreign interests," said Bartlett.

PRI Sen. Laura Alicia Garza Galindo, one of two other PRI members in the upper house to oppose the initiative, raised concerns that the measure would create a parallel electricity market, which she said could eventually contribute to the demise of the CFE and the LFC. The other PRI member to vote against the initiative was Sen. Oscar Canton Zetina.

PRD Sen. Antonio Soto Sanchez said his party supported the 2003 initiative to allow PEMEX to create its own electricity. He said, however, that the PRD could not support the latest initiative because it muddled the role of PEMEX in the production of electricity. "The [2003] law was approved initially to allow PEMEX to produce alternative energies," said Soto. "At that time, we created language that made it clear that exploitation and ownership of energy resources were reserved exclusively for the nation."

The majority vote in favor of the PEMEX electricity initiative is a rare victory for President Vicente Fox's administration, which backed the measure. Energy-industry analyst David Shields said the Fox
government continues to push without much success for other initiatives to bring private capital into various activities in the energy sector, such as construction and operation of pipelines and storage of products, but these have received lukewarm support in the legislative branch. "In the absence of consensus and coordination with Congress, these proposals are doomed to failure," said Shields.

Mexican legislators have wrestled with other proposals to turn PEMEX into a more viable company. In July 2005, the Chamber of Deputies approved an initiative allowing PEMEX to keep a larger share of its revenues (see SourceMex, 2005-07-20). The measure was seen as a good first step in improving the finances of the company, but there is some concern that further reforms will not be forthcoming. Any comprehensive changes would be difficult because PEMEX remains one of the major sources of revenue for the federal Treasury. (Sources: Cogeneration Technologies, http://www.cogeneration.net; Innovation Mexico http://www.innovationmexico.com; Agencia de noticias Proceso, 12/13/05; El Financiero, 12/14/05; El Economista, 12/14/05, 12/15/05; Reforma, 12/14/05, 01/03/06; La Cronica de Hoy, La Jornada, 12/14/05, 01/04/06)