Mexico has recently adopted amendments to the Mexican Constitution that will profoundly change all aspects of the electric power sector in Mexico. Among other things, those amendments (1) reduce the role of the State in the power sector, (2) foster private participation to provide capital, technology and expertise, (3) recast CFE, currently Mexico’s national power company, as an autonomous “State Productive Enterprise,” (4) establish an independent system operator, and (5) revise the regulatory framework, with a reorganized Energy Regulatory Commission as a key regulator. The terms of the implementing legislation for the constitutional amendments – yet to be presented to the Mexican Congress – will be critical in determining how the private sector will be able to participate in the reform of the power sector.

Mexico has adopted amendments to the Mexican Constitution, effective December 20, 2013, that will profoundly change all aspects of the electric power sector in Mexico. This set of amendments provides a framework to:

- Limit the role of the State in the power sector to planning and control of the national electrical system, and the public service of transmission and distribution of electricity;
- Foster private sector participation to provide capital, technology and expertise, including private sector involvement in the financing, operation and expansion of transmission and distribution infrastructure, as well as an unprecedented role for the private sector in the generation and marketing of electricity in Mexico;
- Recast the Federal Electricity Commission (Comisión Federal de Electricidad or “CFE”) – currently Mexico’s national power company – as a State Productive Enterprise with technical, management and budget autonomy, subject to limited controls by the State;
- Establish the National Center for Control of Energy (Centro Nacional de Control de Energía or
The Constitutional amendments themselves lay out fundamental precepts, but those precepts will need to be implemented by means of legislation. In the Decree adopted by the Mexican Congress and signed by the President to amend the Mexican Constitution (hereinafter referred to as the “Energy Reform Decree”), there are a series of “Transitional Articles” that set forth the legislation that will be required to implement the Constitutional amendments, including in many cases the broad outlines of that legislation. The Constitutional amendments and the Transitional Articles together constitute the “Energy Reform,” although the detailed terms of the reform will not be known until the implementing legislation is adopted.

It is currently anticipated that the first and most substantial part of the proposed implementing legislation will be submitted to Congress in late February or in March. The administration of President Peña Nieto hopes to have this legislation approved and in place by the end of the legislative session in April 2014, consistent with the Energy Reform Decree requirement that several elements of the implementing legislation must be adopted within 120 days after the Energy Reform amendments to the Constitution became effective, i.e. by April 19, 2014. However, in light of the large number of constitutional reforms and secondary laws currently on the Congress’ agenda with respect to energy and other matters, it is not certain how much of the implementing legislation will actually be adopted by the end of the current legislative session.

As noted below, the Energy Reform Decree provides that certain additional implementing legislation and regulations, including the decree to create an independent system operator, will be adopted a year or more after the effective date of the Energy Reform Decree, i.e., a year or more after December 20, 2013.

Industry participants should monitor the various elements of the implementing legislation as they proceed through the Mexican Congress in order to evaluate the potential opportunities presented and to mobilize...
for pursuit of deals upon their adoption.

**The Objectives of the Energy Reform**

According to the Mexican government, the Energy Reform is focused on achieving the following objectives:

- Allow the Nation exclusively to carry out planning and exercise control over the electrical system, for the benefit of a competitive system that reduces the price of electricity.
- Have a greater supply of energy at better prices.
- Attract investment to the Mexican energy sector to boost the country’s development.
- Modernize and strengthen, not privatize, CFE as a productive state enterprise that will be 100 percent Mexican.
- Ensure international standards of efficiency, transparency and accountability.
- Promote development with social responsibility and protection of the environment.

**Diagnostics and the Mexican Government’s Response**

To understand why Mexico took the path it did in designing the Energy Reform, it is helpful to understand (1) the issues that the Mexican electric power sector has been facing, and (2) how the Energy Reform will respond to those issues. The following commentary summarizes the Mexican government’s views both as to a “diagnosis” of the problems in the electric power sector, and how the Energy Reform responds to the identified problems. We at Pillsbury add our own commentary on the Energy Reform and next steps.

*Download: Mexico Adopts Major Energy Reforms Restructuring its Electric Power Sector*