

**2024 – 1 Strategic Administrative Litigation****Unconstitutionality of the Amendments to the  
Energy Industry Law**

On January 31, 2024, the Second Chamber of the Mexican Supreme Court of Justice ruled the case number 164/2023, through which it declared unconstitutional several provisions of the 2021 Amendments of the Electrical Industry Law. Such ruling is based under the reasoning that amendments violate the competition and free market principles that constitutionally govern the electrical sector.

The Second Chamber determined as unconstitutional the articles of the 2021 Amendments of the Electrical Industry Law that intended: *i)* establish a fixed order of preference to dispatch electrical energy *favoring Comisión Federal de Electricidad*, *ii)* create of electrical energy coverage agreements, granting benefits to only some participants of the electrical sector (basic service suppliers) concerning the interconnection to the transmission and distribution networks of energy, as well as on the assignment and dispatch of energy; *iii)* eliminate the obligation of the basic service suppliers to celebrate electrical coverage agreements through auctions, and; *iv)* modify the mechanism to grant clean energy certificates to include generators that were not originally contemplated.

Although the Supreme Court ruling only produces effects on the companies that submit the constitutional claim, the Second Chamber of the Supreme Court of Justice determined

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that on this case the consequences of the compliance of the ruling will be general to preserve the balance of the participants of the electrical sector.

It is important to mention that the arguments of the ruling will permeate in the resolutions of the cases that are pending to be resolved in Collegiate Courts.

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Mexico City  
March, 2024

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