

COLOMBIA: *CARGO POR CONFIABILIDAD* – 2019 AUCTION PROCESS

Reliability Charge:

- The Reliability Charge (*Cargo por Confiabilidad*) is a mechanism created in 2006 by Colombia's Energy and Gas Regulation Commission (*Comisión de Regulación de Energía y Gas* or "CREG") to ensure the supply of energy to the Colombian market during periods of drought, such as during the 'El Niño' phenomenon.
- The mechanism is based on Firm Energy Obligations (*Obligaciones de Energía Firme* or "OEFs") awarded by the Colombian Administrator of the Commercial Exchange System (*Administrador del Sistema de Intercambios Comerciales* or "ASIC") in accordance with CREG's regulatory framework.
- OEFs are obligations undertaken by generators to provide reliable and stable energy to the power matrix. Generators are compensated for the availability of their installed generation capacity with a fixed USD amount per KW/hour, paid monthly during the awarded OEF period, regardless of whether any energy is effectively delivered into the system.

The 2019 Auction Process:

- During 2018, CREG identified that by 2021 there would be a deficit in available Firm Energy (*Energía Firme*) to cover growing energy demand in the Colombian market and, to address such deficit, launched this new OEF auction.
- The main characteristics of the 2019 auction are described below:
 - Generators that participate in the auction are required to reach commercial operation by no later than a date (the "Target Commercial Operation Date") between December 1, 2022 and November 30, 2023 (the "Commercial Operation Period").
 - The regulatory framework also contemplates an incentives scheme for generators that reach commercial operation before December 1, 2022, by awarding them certain economic benefits depending on the date in which the relevant power plant reaches commercial operation (the "Early Commercial Operation Date"):

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- if commercial operation is reached between December 1, 2021 and November 30, 2022, the OEF period and its associated compensation will be extended to cover the period between the Early Commercial Operation Date and the Target Commercial Operation Date; and
 - if commercial operation is reached before December 1, 2021, the OEF period and its associated compensation will be extended as described above and, in addition, the generator will receive an incremental USD 2.00 per MW/hour until November 30, 2022.
- Generators must submit their bids in a closed envelope format with a fixed USD amount per KW/hour.
 - The OEF period will be selected by each generator depending on the type of generation plant and the availability of energy and resources determined by each generator:
 - for new plants, the OEF period may be up to 20 years;
 - for existing plants in the process of increasing their capacity by closing the cycle or repowering, the OEF period may be up to 10 years; and
 - for other existing plants, the OEF period may be up to 5 years.
- The awarded OEFs will be cancelled if:
 - a generator fails to reach commercial operation on or prior to the Target Commercial Operation Date and fails to guarantee its awarded OEFs through a Support Contract (Contrato de Respaldo); and
 - a generator fails to reach commercial operation on or prior to the first anniversary of the Target Commercial Operation Date.

Timeline for the 2019 Auction and Award process:

Submission of Proposals	February 28, 2019
Publication of Closing Price and OEF Awards	March 1, 2019
Submission of any Observations	Until March 2, 2019

Structuring and Relevant Experience:

- The "Reliability Charge" has proven to be an effective source of collateral for the structuring of long-term non- or limited- recourse financing for generation projects in Colombia. Our award-winning Energy and Infrastructure Group has deep experience in these types of projects in Colombia. We would be delighted to provide you additional detail and discuss structuring possibilities.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. We do not advise on Colombian laws and express no opinion as to any matters governed by any laws other than the laws of the State of New York and the federal laws of the United States of America.

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