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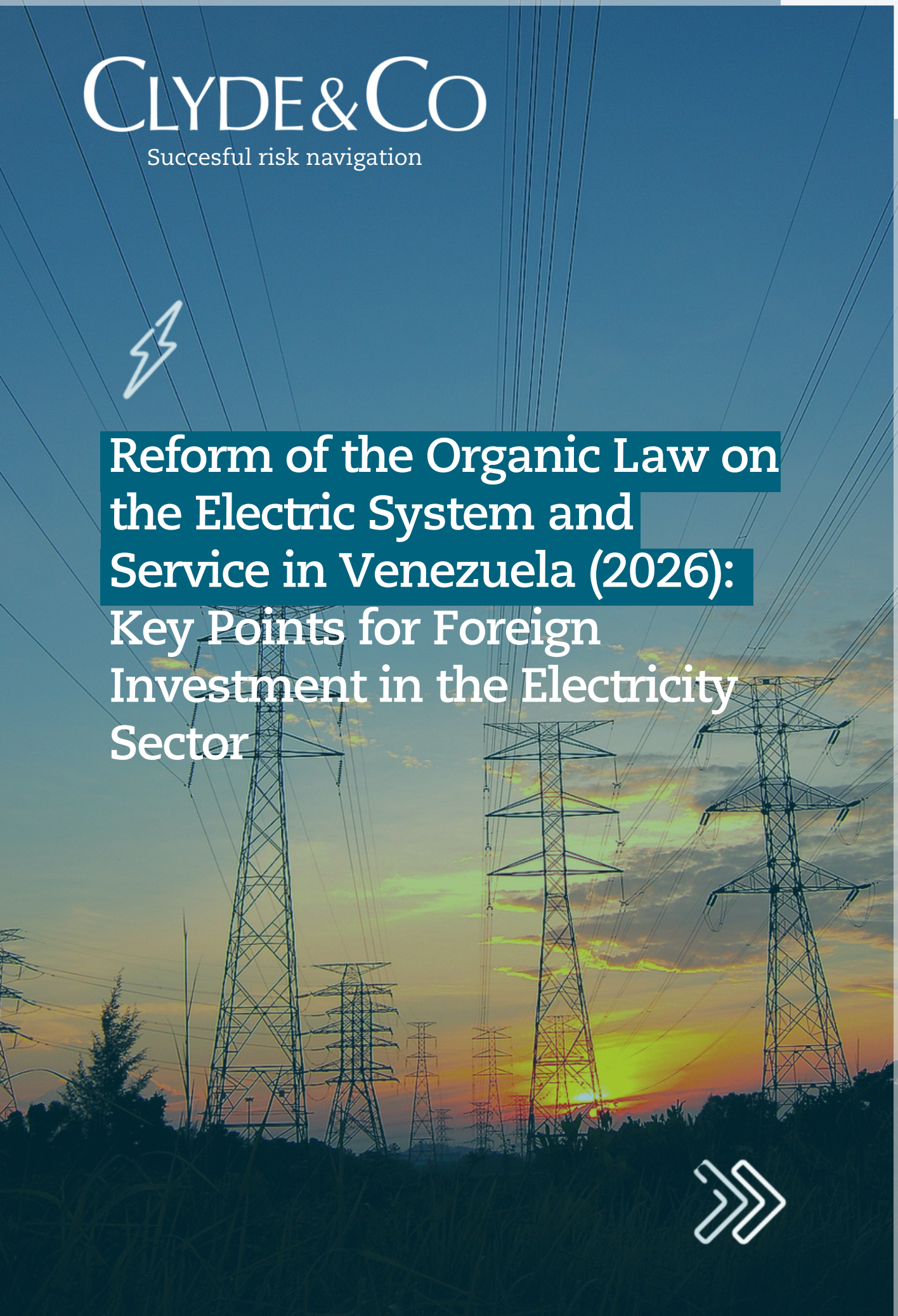
Reform of the Organic Law on the Electric System and Service in Venezuela (2026): Key Points for Foreign Investment in the Electricity Sector





This analysis is based solely on the text proposed in the Report for the Second Discussion of the Draft Organic Law on the Partial Reform of the Organic Law on the Electric System and Service. Because the text is still a proposal, its conclusions should be checked against two things: the final text published in the Official Gazette, from whose publication the Law will enter into force, and the Regulations that the Ministry with competence over electric power must issue.

In substance, the reform declares generation, transmission, dispatch, distribution and commercialization to be public services. The State reserves to itself hydroelectric generation in the Caroní, Paragua and Caura river basins, the Uribante Caparo complex and all other existing hydroelectric plants larger than 2 MW. It also reserves strategic trunk transmission, distribution in areas of strategic interest, and dispatch. Outside that reserved scope, mixed companies and private companies domiciled in Venezuela may carry out these activities once they obtain one of the three enabling titles provided for in the Law.

On the economic side, the Law establishes free pricing in bilateral contracts between authorized agents. It also sets a remuneration that reflects prudent costs and allows an efficient operator to earn a reasonable return, supplemented by targeted, transparent and explicit subsidies. On legal certainty, it provides for arbitration and limits intervention of concessions to specifically defined cases.



1. Nature of the Sector and Limits on Private Investment

Electricity activities are a public service and may be provided by public and private persons. Their works and assets are of public utility. The State reserves to itself hydroelectric generation in the Caroní, Paragua and Caura basins, the Uribante Caparo complex and all other existing hydroelectric plants larger than 2 MW. It also reserves strategic trunk transmission, distribution in areas of strategic interest, and dispatch.

The following may operate: State-owned companies, mixed companies in which public participation exceeds 50% of the share capital, private companies domiciled in Venezuela holding an enabling title, and hydrocarbons operators. A foreign investor must therefore act through a company domiciled in the country. Operators shall endeavor to incorporate national human talent and national goods and services.

2. Institutional Framework

- Ministry of People's Power for Electric Energy. The governing body. It formulates public policies and plans and oversees their implementation.

- Superintendency of the National Electric System. The regulator, with technical autonomy. It calculates the Technical Tariff; grants, modifies, suspends and revokes licenses and certificates; and carries out inspection and sanctioning.

- National Electric System Management Center. Dispatches electric power. It also declares the available capacity of the grids for open access and coordinates maintenance and the restoration of electric service in emergencies.

- CORPOELEC. The State-owned operator. It is empowered to create subsidiaries and enter into public-private partnerships.

3. Enabling Titles and Means of Access

Private and mixed companies require one of three titles:

Registration Certificate. Granted by the Superintendency. It covers self-generation, generation and distributed generation below 2 MW intended for commercialization, and traders selling at market prices.

Connection License. Granted by the Superintendency upon an opinion from the National Management Center. It covers self-generation, storage, and projects that require neither a concession nor a certificate.

Concession. Granted by the Ministry following a binding report from the Superintendency. It covers generation above 50 MW or generation affecting public-domain assets, trunk transmission, distribution and commercialization in exclusive service areas, and integrated regional systems.

Other noteworthy features of the titles regime:

Term and assignment. Concessions are granted for up to 25 years, and titles may be assigned only with express authorization. Where generation uses hydrocarbons, the binding opinion of the Ministry of Hydrocarbons is required.

Exemptions. No title is required for self-consumption without injection of surplus energy, or for distributed generation below the threshold set by the Superintendency, which may not be lower than 200 kW. Self-generation of 2 MW or more requires authorization. Below that, a technical registration and an interconnection agreement are enough.

Content of the title. The title sets the term and any extension, the tariff regime determined by the Ministry, the rules on the unamortized New Replacement Value, the guarantees, and the grounds for intervention and termination.

Partnerships with CORPOELEC. With prior ministerial authorization, CORPOELEC may assign the operation of existing assets, which remain publicly owned. The operator does not assume prior labor, environmental, contractual or tax liabilities.

Other means of access. The Ministry may call public selection processes for regulated demand. Private parties may build new transmission works but may not sell energy, and independent systems may use integrated schemes. No concession grants exclusivity over generation.

4. Market and Commercialization

Free pricing. Operators, independent and authorized generators, special users and hydrocarbons operators negotiate freely through bilateral contracts, without prior tariff control, in line with international standards. Sales to regulated users require a title.

Special users. Large consumers authorized by the Superintendency to buy energy at negotiated prices, self-generate, use the grids by paying a toll, and sell surplus energy. They may not supply third parties without an enabling title.

Storage. A market activity. It may provide remunerated ancillary services.

Power purchase agreements. The contract must regulate, among other matters, the price formula, metering and settlement, payment guarantees, force majeure, change in law, and dispute resolution. The State does not act as guarantor, except in generation contracts declared to be of national interest.

Open access. Operators may access the available capacity of the transmission and distribution grids by paying the regulated toll, and transmitters and distributors must allow such access. The concessionaire of a regional system must guarantee access without discrimination, charge only regulated tolls, and not restrict bilateral contracts or industrial self-generation.

5. Economic, Tariff and Tax Regime

Remuneration. The Superintendency must issue remuneration methodologies that reflect all prudent investment, operation, maintenance and administration costs. These methodologies must allow an efficient operator to earn a reasonable return on net assets in operation, comparable to activities of similar risk.

Two tariffs. The Superintendency calculates the Technical Efficient-Cost Tariff, which is the basis for operators' full remuneration. The Ministry, jointly with the Ministry of Finance, sets the Applicable Tariff for general users. The difference between the two is the subsidy borne by the State, and the invoice must show the actual cost, the subsidy and the net amount payable as separate items. The Superintendency will review costs annually.

Subsidies. Subsidies are targeted, transparent and explicit. Their application may not impair the operators' revenue collection or overall cash flow based on the Technical Tariff. The Executive must set up a fund or trust arrangement to finance them. Where a concession's sustainability depends on subsidies, a trust or other payment-guarantee mechanism covering the differential may be set up before the contract is signed, subject to a favorable report from the Ministry of Finance.





Separate accounting. Each activity must be accounted for separately under the Superintendency's rules, to prevent improper cross-subsidies.

Taxes. Electricity activities are subject to the general tax regime and to the Organic Law on the Coordination and Harmonization of the Taxing Powers of the States and Municipalities. Municipalities may not tax the transit of high-voltage electricity, generation capacity or transmission tolls. They may only charge fees for local services actually provided. The President of the Republic, in Council of Ministers, may grant total or partial exemptions by decree. These exemptions must be temporary, general and non-discriminatory, and serve to promote the expansion, reliability, efficiency, environmental sustainability or security of the system.



6. Special Regime for Primary Hydrocarbons Activities

Hydrocarbons operators must secure the electricity supply for their primary activities through self-generation, cogeneration or contracts with third parties. These activities may be supplied by public, private or mixed legal entities incorporated for that sole purpose. Such entities need authorization from the ministry with competence over hydrocarbons, within the framework of a business plan or specific project, and must register as special generators in that ministry's registry. They may not supply electricity to users outside the primary hydrocarbons activities, except in the cases provided for in the Law.

They do not need an enabling title for their internal grids unless they interconnect with the system or inject surplus energy, but they must register with the Superintendency. Interconnection requires authorization from the Superintendency, which must grant or deny it, with reasons, within 90 calendar days. Surplus energy is dispatched with priority for the critical load of the primary activities. These entities also have the same easement rights and obligations provided for in the Law, insofar as they are compatible with their activity.



7. Legal Certainty

Arbitration. The reform expressly provides for arbitration and mediation as alternatives to the national courts, provided the enabling title allows for them.

Intervention. The Ministry may temporarily intervene a concession only for serious breach, insolvency or bankruptcy that puts the service at imminent risk. It may never do so preventively without a proven breach, nor by altering financing agreements entered into in good faith. If the failure persists, reversion follows.

Reversion. When the title ends, the operator hands over to CORPOELEC, or to whoever is designated, all assets acquired while the title was in force, free of encumbrances. Article 31 does not provide for compensation.

Emergencies. During a state of exception or electricity emergency, energy taken from self-generation of 2 MW or more and from authorized plants is paid at the agreed price or at its audited cost, within 30 calendar days.
Equal treatment. Private operators have the same duties as CORPOELEC and must be supervised without discrimination.



8. Administrative Sanctions Regime

Operators face fines of up to 2% of their gross revenues for the previous 12 months for serious infringements, such as denying grid access or applying unauthorized tariffs. For less serious infringements, fines go up to 0.2%. Self-generation, cogeneration and generation in independent systems face fines of 1,000 to 10,000 times the official exchange rate of the highest-value currency published by the Central Bank of Venezuela (BCV) for refusing supply in emergencies or for injecting energy without complying with the regulations. A self-generator above 2 MW that refuses supply during a state of exception also loses its authorization. Directors and personnel are also liable, and the statute of limitations is 5 years.

9. Criminal Liability and Easements

Among other offenses, the Law punishes with imprisonment: improperly disclosing system security secrets (8 to 16 years), intentionally interrupting the service (4 to 8 years), and tampering with billing (1 to 5 years). Without an agreement with the owner, the operator may seek expropriation or a judicial easement. In urgent works, it may take prior possession by depositing the compensation. The easement lapses if works do not begin within 2 years.

10. Implementation Deadlines

Deadlines run from the publication of the Law in the Official Gazette.

Deadline	Obligation
180 calendar days	Issue the Regulations
180 calendar days	Apply for authorization of self-generation of 2 MW or more
180 business days	Adapt the National Management Center to the Ministry's structure
1 year	Prepare the National Electric System Development Plan
1 year	Set up the subsidy fund (until then, fines are paid into the National Treasury)
2 years	Update user data
3 years	Regularize supply points without a contract

This analysis is based on the text of the second-discussion report. The Law takes effect only on publication in the Official Gazette, so that publication must be awaited to confirm whether the final text changed any of the provisions analyzed here.

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