

# It's time to invest in renewable energies in Guatemala



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Climate change has become one of the most important issues in the world, not only because of its environmental nature, but also since it has such a great effect in international and national economies. One of the human activities that greatly affects global climate is energy generation, especially the one produced through fuel sources, and Guatemala is not an exception. Due to the excessive use of fossil fuels in the country, among other practices, according to the 2010 Environmental Performance Index (EPI), from Yale University, Guatemala is currently ranked at 104 of 163 in its capacity to protect the environment. This position may be overturned if there is more investment in renewable sources, and even though this might be more expensive to set up, in the long run it is cheaper to operate.

Guatemala has the potential to generate electricity through any and all renewable sources. One of its greatest potentials is hydroelectric energy, since there are more than 35 rivers in the country. Before 1996, most of the energy generated in the nation came from hydroelectric plants. But water is not the only renewable source that may be used. Because of its location, Guatemala guarantees permanent access to the sun through solar panels, and biofuels may be easily harvested in its fertile soils. Also, there are 32 different volcanoes in the country, that allow for geothermal energy to thrive. And finally, wind energy may be significantly generated in chosen sites.

The importance of renewable energy sources is that they have environmental, health and cost advantages over fossil fuels. While non-renewable fossil fuel use causes global environmental problems, renewable energy is non-polluting, since they do not release carbon-based warming and polluting agents into the atmosphere. Also, conventional energy sources, such as fossil fuels and nuclear power, create a number of environmental, social, and political problems and are dependent on limited resources found in specific parts of the world. On the other hand, renewable sources may be used repeatedly without being depleted and improve local air quality and reduce human impact on land, water and climate, and therefore there are also indirect savings on health and its costs. Increased use of renewable energy will also help boost local economies through job creation and allows to locally control energy production, ensuring stable prices and increasing security of energy supplies.

As you read this article you will be able to appreciate how Guatemalan legislation favours investment in energy generation, and especially energy deriving from renewable sources, since it is based on free market principles that take into consideration foreign investors, creates specific benefits for renewable energy projects, and the administrative process to set up a generation plant is specifically defined by law, avoiding surprises.

## Advantages

Energy legislation in Guatemala derives from the constitutional mandate that electrification in the country is declared as a national urgency and allows for private companies to participate in the process. From this norm, the National Committee on Electric Energy (*Comisión Nacional de Energía Eléctrica*) (CNEE), the State entity in charge of regulating and supervising compliance in the sector, is now opening for public bidding up to 800MW of energy generation, of which at least 40% will be specifically targeted to renewable energies.

Also, Guatemalan legislation guarantees equal treatment to foreign and national investors, through free market policies. The Constitution states that foreigners may invest in all types of economic activities. There are no restrictions in carrying out transactions in other currencies and to have access to local credit lines. Furthermore, import and export policies are protected and companies are free to repatriate investment capitals or benefits. In the case of any type of

differences between the foreign investor and the State of Guatemala, these may be submitted to international arbitration.

## Principles

Four basic and fundamental principles apply to the electric sector in Guatemala, which allow its participants to easily carry out all electricity related activities. These activities include generation, transportation, distribution, commercialization, and consumers usage.

- **Free access to the electric sector**

This principle is considered as a great advance in the Guatemalan electric sector, since it incentivizes private parties to participate in what was previously considered as a State activity. Notwithstanding this principle, the electric sector is subject to those restrictions established by law, such as the need to obtain authorization to use State owned assets, toll prices, etc. Also the quality of these services and prices for specific activities are governed by the technical and coordination standards issued by CNEE and the Wholesale Market Manager (*Administrador del Mercado Mayorista*) (AMM), a private entity that coordinates the operations of agents that participate in the electric sector activities.

- **Self-regulation**

With this principle, the State has waived some of its intervention powers and structures, in order to allow social forces to act and boost decentralization and de-monopolization of transmission and distribution of electric energy, to speed up offer growth and satisfy social and productive needs of the inhabitants of the country. Therefore, private participants of the electric sector, through CNEE and AMM, and according to limitations established by law, are empowered to issue norms that encourage development and quality of the service.

- **Freedom to participate in the electric sector**

Any person, individual or corporate may participate in the electric sector, through any of its activities. There are no limitations to participate in the electric sector, as long as legal requirements are fulfilled. Also, there are no limitations regarding nationality of participants or their associates, partners or shareholders.

- **Service continuity**

The purpose of this principle is to maintain the stability of the electricity service, since it is considered as an essential service for the correct operations of the country. With this principle, the public is ensured the reception of electricity, even when the authorization to generate, transport or distribute energy has been terminated or ended. The reason for this is because the country has borne great economic losses due to interruptions in the service. The Ministry of Energy and Mines is empowered to provisionally place any company under state administration, in order to insure continuity in its operations.

## Benefits

Guatemalan legislators saw the need to promote the use of renewable sources to generate electricity in order to protect the environment. The Incentives to Renewable Energy Projects Law creates fiscal, economic and administrative incentives to these types of projects, in order to support their development. Although this law is specially directed to large scale hydroelectric, wind and geothermal projects, nothing in the law prevents other types of projects to apply and obtain the incentives it establishes.

Regarding fiscal incentives created by law, the owner of a project may be benefited by the exemption to some taxes related with the

construction and operation of the project. During the investment and construction period of the project, the proponent is subject to the exemption of the Value Added Tax (12%) for all imports of equipment and machinery to be used in the construction of the project. Furthermore, from the moment the project starts operating its owners will be exempt of income tax during a 10-year period. Authorization to obtain the incentives provided by this law must be requested at the Ministry of Energy and Mines during the pre-investment or construction periods.

Also, and in hopes that the term of the Clean Development Mechanism (CDM) of the Kyoto Protocol is extended beyond the year 2012, project owners who contribute with sustainable development of the environment may obtain a Project Approval Letter from the Designated National Authority, in order to become a registered as CDM project at the United Nations Framework Convention on Climate Change (UNFCCC) Secretariat.

#### **Process**

Based on the Free Access to Electricity Sector principle, no specific authorization is required to generate electricity. However, if you are using any state asset, such as water or geothermal sources, and when the power to be produced exceeds 5MW, the company must request authorization to use them, from the Ministry of Energy and Mines.

In addition, every person must comply with those laws that tend to protect the environment and the protection of persons, their rights and assets. Based on this norm, the Environment and Natural Resources Protection Law requires the approval of an Environmental Impact Assessment (EIA) for those projects that may deteriorate renewable natural resources or the environment, or introduce harmful or evident alterations to the scenery and to cultural or natural resources.

There are two basic steps required to obtain this authorization. First, obtain approval of an initial environmental assessment in order to determine if the project requires further analysis through another type of instrument. This instrument must describe the nature of the project and its location, its different phases, such as construction, operation and closing, and the possible environmental impacts. Second, if further analysis is required, then a complete EIA must be drafted by an authorized consultant. In this case public participation is given to interested parties and public entities, and an environmental license must be paid for and kept in force.

In conclusion, this is the right time to invest in renewable energies in Guatemala, since our authorities have realized there is a need to promote their use. The electric sector in Guatemala is free-market oriented and allows private parties to freely participate in power generation and to be self-regulated. For consumers, the service is guaranteed, since the market offers continuity in the sector. Also investors may take advantage of the incentives created by law in order to lower their construction and operation costs, and since operation regulations are clearly established by law, and thus avoiding any surprises to investors. Furthermore, as previously stated, the great advantages of renewable energy are that they may be used repeatedly without depleting them; there is no contribution to global warming through polluting emissions; there are savings on health costs, and in the long run, its application costs are lower. ■

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