

Renewable Energy Law – Amendments, Incentives & Expectations

The closing of 2010 saw the enactment by the Turkish Parliament of the Law Amending the Law on Utilization of Renewable Energy Resources in Electricity Generation (Law No: 6094) (*enacted 29 December 2010, published in the Official Gazette dated 8 January 2011 and numbered 27809*) ("**Amendment Law**"). The Amendment Law introduces significant amendments to improve the incentive mechanism under the Renewable Energy Law and encourage renewable energy investment opportunities in Turkey – the following are the main amendments and incentives:

RES Support Mechanism

New tariffs have been introduced for the sale of electricity by generation facilities based on renewable energy resources which: (i) hold an RES Certificate, (ii) commenced/will commence operations within the period 18 May 2005 to 31 December 2015, and (iii) apply to EMRA by 31 October of the previous year. The Amendment Law requires generation facilities to submit applications within one month from the enactment date of the relevant regulations mentioned under the Renewable Energy Law if they wish to benefit from the RES Support Mechanism during 2011. According to the Amendment Law, the applicable sale tariffs within the scope of the RES Support Mechanism are as follows:

- Hydroelectric power plants: \$0.073/kWh
- Wind power plants: \$0.073/kWh
- Geothermal power plants: \$0.105/kWh
- Biomass power plants: \$0.133/kWh
- Solar power plants: \$0.133/kWh

A generation licensee within the scope of the RES Support Mechanism can only benefit from the above sale tariffs for a maximum term of 10 years from its operation date.

The Council of Ministers will determine the sale tariffs applicable to generation plants starting operations after 31 December 2015 but such tariffs cannot exceed the rates above.

An additional incentive has also been introduced to promote the use of Turkish equipment. Accordingly, if the mechanical and electromechanical components of a power plant subject to the RES Support Mechanism and which commenced operations before 31 December 2015 are manufactured in Turkey, the above sale

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tariffs will be increased in the amounts set out under the Renewable Energy Law. A generation licensee will be able to benefit from this incentive for five years starting from the operational date of the power plant.

- **MFRC System:** Pursuant to the Amendment Law, the Market Financial Reconciliation Centre (the “**MFRC**”) shall announce the **RES Total Amount** and the **Payment Obligation Ratio** (see sidebar) of each supplier for each invoice period. The MFRC will invoice each supplier providing electricity to consumers the amount they are obligated to pay and the collected amount shall be payable to generation licensees subject to the RES Support Mechanism in proportion to their shares. A regulation is expected setting out the essentials and procedures regarding this payment mechanism in more detail within three months following the publication date of the Amendment Law.
- **Solar Power Specific Restrictions:** According to the Amendment Law, the total installed capacity of solar power generation plants with RES Certificates that connect to the transmission line before the end of 2013 cannot exceed 600MW, limiting the number of solar power-based generation facilities entitled to an RES Certificate. The Council of Ministers will determine the total installed capacity thresholds for power plants connected to the transmission system after 31 December 2013.

Other Incentives

- **Land Usage Fee Incentives:** A discount of 85% for permission, lease, easement right and servitude right fees for generation facilities based on renewable energy resources, their transportation roads and transmission lines to the system connection point, including those to be transferred to distribution companies or the Turkish Electricity Transmission Company (Türkiye Elektrik İletim Anonim Şirketi) (“**TEİAŞ**”), will be applicable for the first 10 years, including the period of investment and operation. Pursuant to the Amendment Law, this discount is applicable for facilities that commence operations by 31 December 2015. Prior to this amendment, such a discount was only applicable for generation facilities that commenced operations before 2011.
- **Establishment of power plants in protected regions:** The Amendment Law allows for the construction of power plants based on renewable energy resources in national and natural parks, natural monuments, protected regions, conserved forestry, wildlife development zones, special environmental protection zones and natural protected areas provided that the necessary permissions are obtained from the Ministry of Environment and/or regional protection boards.

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RES Total Amount is defined as the total sum of the electricity energy amount dispatched to a transmission and distribution system by each of the licensees subject to the RES Support Mechanism multiplied by the applicable sale tariffs under the Amendment Law.

Payment Obligation Ratio is defined as the amount to be calculated by dividing the amount of electricity sold by each supplier to their consumers by the total amount of electricity sold by all suppliers to their consumers. The electricity energy amount generated by facilities based on renewable energy resources and traded in the free electricity market without being subject to the RES Support Mechanism shall not be included in the calculation of the Payment Obligation Ratio.

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Solar Energy

Under the Amendment Law, applications for solar-based power plants must include a measurement that complies with the standards of the relevant generation facility. If an owner applies for a generation license to establish a solar-based power plant on his/her own land, other license applications for the same land will not be evaluated. If there is more than one license application for the same region or using the same transformer station, TEİAŞ will launch a competition procedure to award the license, based on the discount offers of the bidders in relation to the above sale prices within the scope of the RES Support Mechanism. The issuance of a regulation setting out the essentials and procedures regarding this tender procedure in more detail is expected within three months following the publication date of the Amendment Law.

Despite the developments introduced by the Amendment Law aiming to boost renewable energy investment and please investors, there are still gaps. We expect these gaps to be settled and clarified through the regulations to be issued within the scope of the Amendment Law.

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