

Energy Newsletter

APRIL 2023

Introduction

The recently enacted Law 5037/2023 (Government Gazette 78 A'/28.03.2023) introduces a series of new regulations regarding licensing, regulatory and environmental matters in the energy sector, mostly by way of amendment of legislation already in place.

Highlights of such new regulations are summarized below:

- **Renaming of RAE and expansion of its mandate (Art. 6 et seq):**

The Greek Regulatory Authority for Energy (RAE) now becomes Regulatory Authority for Waste, Energy and Water (RAWEW) and is responsible for waste and water matters, in addition to energy. It remains an independent authority and is also granted the authority to examine consumers' complaints against providers and oversee the enforcement of their protection measures.

- **Opt-out from regulated tariff PPA regime for producers affected by New Deal's reference price cuts (Art. 155):**

RES plants remunerated with regulated tariffs which had been reduced by virtue of Law 4254/2014 ("New Deal"), operating for less than 12 years, may opt to either refuse the automatic 7-year extension of their regulated tariff PPA, or terminate it (if already automatically extended) and conclude instead a corporate PPA; the relevant production and operation licenses are extended up until the expiry of such corporate PPA (but in any case no more than 7 years).

- “Merchant break” from regulated tariff PPA regime (Art. 112):

RES plants which have concluded or will conclude by 31.12.2023 PPAs with regulated tariffs, have the right to go merchant for a period starting from the issuance of their operation license (or activation of grid connection for exempt projects) and ending 2 years therefrom; during such break, the PPA term is temporarily suspended and upon re-activation the PPA term and the relevant production / operation licenses are extended by an equal time period.

- Extension of reference prices deadlines for regulated tariff PPAs (Art. 111 and 165):

The deadline for concluding PPAs with regulated tariffs (not via participation in RAE's auctions) is extended until 31.12.2024 for PV projects (with the exception of roof-top PV projects) and wind projects up to 6 MW (especially regarding PV projects up to 500 kW developed by Energy Communities, after 30.09.2024 only up to 2 PPAs with regulated reference prices can be concluded); deadlines set for reaching ready to connect status in order to secure regulated reference prices at current levels are extended, amongst others, to 01.09.2024 for PV projects and to 01.01.2025 for wind projects.

- Project milestone deadlines (Art. 132):

Additional, stricter deadlines are introduced to ensure the timely implementation of licensed RES plants, including for the submission of a full request for the signing of a Grid Connection Agreement within specific deadlines from the acceptance of grid terms (varying depending on the type and licensing maturity of the relevant RES plant).

- Criteria for grid connection cost sharing between producers and IPTO/HEDNO (Art. 139):

The novel law provision enacted in July 2022 regarding the 50/50 split of cost of connection works of RES projects is amended to clarify that it captures only relevant invoices issued after 01.10.2021 and on condition that the connection was activated after 01.01.2021.

- **Licensing of grid connection works (Art. 218-219):**

New regulations are introduced by way of amendment of Law 998/1979, as amended and in force, aiming to facilitate and expedite the implementation of grid connection / expansion works and other interventions in forest or forestry areas.

- **Exempt Projects polygons (Art. 133 and 273):**

The deadline to submit an application for the issuance by RAE of a Certification of Exempt Project Polygon Registration for an already operating project is extended from 31.03.2023 to 30.06.2023. In case such a certification cannot be issued due to overlapping with already licensed projects, RAE shall perform a comparative evaluation of the projects on the basis of certain priority criteria. If such criteria are met, the exempt projects are prioritized and the certification is issued; if not, the exempt project can be relocated within a 3 months' deadline, following the lapse of which all project's licenses automatically cease to have effect and the respective letter of guarantee can be returned to the producer upon request.

- **Regulations on land expropriation (Art. 163):**

The land expropriation regime applicable to RES projects are enhanced, including by providing that the decision announcing the expropriation is sufficient to prove the right of use necessary for the issuance of the installation license for wind projects, while on the other hand a restriction is introduced as regards the percentage of land that can be expropriated for the installation of PV projects (maximum of 2% of the total land plot).

- **Offshore Wind Parks (OWP) (Art. 164):**

The new regulatory framework introduced in July 2022 is amended by introducing priority zones for the development of OWP benefiting from more flexible environmental licensing status and special provisions applicable to the licensing and development of the so designated as "pilot" OWP projects of up to 600 MW of total capacity (not less than 200 MW for each project) in the Northeast Aegean.

- **Floating PV parks (Art. 244-245):**

The regulatory framework applicable to pilot floating PV parks introduced in July 2022 is amended by to facilitate licensing in certain cases, while it is clarified that the RES levy introduced by Law 4964/2022 applies also to pilot floating PV parks.

- **RES plants in Non-Interconnected Islands (NIIIs) (Art. 113-117 and Art. 141):**

The regulatory framework for hybrid power plants in NIIIs is reformed, by elaborating on the operative aid determination mechanism applicable to such projects; small (60 kW to 1 MW capacity) wind turbines previously used in other projects for less than 20 years can be installed in projects in NIIIs with an operation license issued for less than 20 years (the specification of the turbines' sufficiency and time for which they can keep operating is certified by either their manufacturer or a third, ISO certified entity).

- **Facilitation of implementation of hydropower plants (Art. 120 and 162):**

Hydropower plants with capacity equal or more than 15 MW shall be granted building permits by derogation from any other applicable provision. If works for a hydropower project larger than 100 MW are of "national importance" and require the transfer of a local village to a new location, this can take place in a public, private or municipal area, or an area owned by the relevant electricity producer, according to the framework applicable to expropriations.

- **New forms of Energy Communities (Art. 45-62 and art. 86-102):**

Two new forms of Energy Communities (ECs) are introduced, i.e. Renewable Energy Communities (REC or "KAE" in Greek) and Energy Communities for Citizens (ECC or "EKP" in Greek) as multi-member cooperatives enjoying certain licensing benefits, while strict conditions are imposed to the transfer of RES project rights belonging to them and their conversion to other corporate forms and other corporate transformations in general. The current form of Energy Communities is gradually phased out, as no new Energy Communities of the current form can be incorporated after 01.04.2023 and the existing ones can either be converted to RECs or ECCs or continue as is but in the latter case they will not be able to submit new applications for producer certificates or grid connection terms after 01.11.2023.

- **Net metering and self-consumption (Art. 63 et seq.):**

A limit of maximum 100 kW (significantly lower than the currently applicable 3 MW limit) is introduced for the application of net metering on RES projects for self-consumption; further details of the net metering process to be elaborated in a ministerial decision following the opinion of RAE.

- **Guarantees of Origin (Art. 68 et seq.):**

Procedural aspects of the issuance of GOs are further regulated and the provisions of the EU Directive 2018/2001, as in force, are transposed into Greek law by setting the regulatory framework for the participation in the EU platform for RES development and statistical data transfers between member states, allowing agreements to be concluded with other EU member states for the intra-EU transfers of RES-originating energy.

- **Power production from fossil fuels (Art. 160-161):**

Law 4001/2011 is amended by imposing stricter conditions for maintaining electricity production licenses from fossil fuels, including by imposing a ban on issuance of new production licenses for gas fired power plants (with certain exceptions, while offering the option to migrate to electricity storage projects) and strict letter of guarantee requirements.

Contact Us:

ALEXANDROS TSIRIGOS
EXECUTIVE PARTNER
E-M: alexandros_tsirigos@klclawfirm.com

DANAI PAPADEA
ASSOCIATE
E-M: danai_papadea@klclawfirm.com

KLC Law Firm

10 Kapsali Str. 10674 Athens, Greece

T. +30 210 7264500

F. +30 210 7264510

www.klclawfirm.com

© KLC Law Firm. The content of this Newsletter is only for general information purposes and should not be construed as legal advice, whether in general or on any specific legal matter, neither as business nor investment advice. For any legal advice on such matters, please contact KLC Law Firm.