



09 July 2020



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LEGAL BRIEFING – Corporate

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Greek RES licensing process – A long anticipated reform finally in place?

The Greek Government recently passed a new law (Law 4685/2020, GG A' 92/07.05.2020), aiming to reform environmental and RES licensing process. As regards RES projects, the acceleration of the licensing process has been the continuous demand of market participants and investors since the early years of the establishment of the Greek RES market and the long-awaited law is expected to contribute significantly to the rationalisation of the applicable regulatory framework.

The main novelty of the new law is the introduction of the so called “Producer’s Certificate”, which comes to replace the first - until today - milestone in the RES licensing process, i.e. the production license. The term of the certificate is set to 25 years (instead of 15 years that was the term of production licenses) and can be renewed for an equal period of time.

Applications for the issue of a production certificate may only be filled electronically, through a digital registry which is aimed to operate as an interface between the various administrative bodies that are involved in the overall licensing process. The tasks of operating this registry, as well as assessing the relevant applications and issuing the certificates is currently assigned to the Energy Market Regulator (RAE), nonetheless the law provides that such competencies may be allocated to a different administrative body following a decision of the Minister of Environment and Energy.

Considerations as to matters of national security, public health and safety,

connectivity restrictions and the applicants' financial good standing remain relevant, under the new law, however the new law rationalizes the whole evaluation process by abandoning certain obsolete criteria of the past regime. A stricter evaluation process, applying additional criteria, is provided in the law for a special category of projects (the so-called "Special Projects"), such as hybrid and geothermal stations, solar thermal stations located in non-interconnected islands, offshore wind farms or clusters of wind farms of more than 150 mW of installed capacity and hydro-electric stations of more than 15 mW of installed capacity.

Another important feature of the new law is that it sets a quite ambitious timeline for the issue of the Producer's Certificate. In particular, the certificate should be issued at the latest within 20 days following expiry of either the 15-days period during which affected third parties can file objections to the application, or thereafter the 15-days period during which the applicant may file its counter-arguments to such objections. The deadline for third parties to file objections commences upon publication of a summary of the application in RAE's website. To counterbalance the accelerated timeframe for the certificate's issue, the law requires from newly licensed projects to become operational within specific, strict deadlines, failure to comply with which leads to the automatic revocation of the Producer's Certificate. This stricter time framework for project implementation not only applies to new applications, but also captures old projects which already have a production license in place or expect to have their production license application scrutinized.

Finally, the new law accompanies the reform of the RES production licensing with important changes to the RES environmental licensing procedure, including, amongst others, the increase of the capacity threshold below which RES projects are exempted from environmental licensing from 0.5 mW to 1 mW and the extension of the term of Environmental Terms Approvals from 10 to 15 years.

To conclude, the recently enacted law is a very positive step towards modernisation of the Greek RES licensing framework. It remains to be seen to what extent the secondary legislation that is expected to be issued will be aligned with, and effectively implement, the law's stated objectives.

