

NEW CHANGES IN UNLICENSED ELECTRICITY GENERATION MARKET

On 23 March 2016, the new legislation regarding the Unlicensed Electricity Generation in Electricity Market which brings significant alterations on the preceding “**Regulation regarding the Generation of Unlicensed Electricity in the Electricity Market**” (“Regulation”) and “**Communication Concerning the Application of Regulation on the Unlicensed Electricity Generation in the Electricity Market**” (“Communication”) published in the Official Gazette and as of publication date it is entered into force.

The outstanding amendments on the Regulation regarding the Generation of Unlicensed Electricity in the Electricity Market can be summarized as follows:

Additional Provisions Regarding Connection and System Usage:

- The distance between Generation Facility and available Grid shall not be more than following lengths:
 - Air distance (as the crow flies) up to five kilometers and project based distance up to six kilometers for the facilities with 0,499 MW utmost installed capacity,
 - Air distance (as the crow flies) up to ten kilometers and project based distance up to twelve kilometers for the facilities with installed capacity between 0,5 MW- 1 MW.
- Total 1 MW Capacity for each Transformer Station:
 - Excluding the roof-top systems, in each transformer station, maximum 1 MW installed capacity shall be allocated for any real or legal persons generating renewable energy (wind, solar), regardless of the number of consumption facilities belonging to the same person. More importantly, in the calculation of this 1 MW total limit, not only real or legal person but also their direct or indirect subsidiaries of the same person even the legal persons who under the control of them shall be taken into consideration.

▪ **Limit on Connection Contract Power:**

- The installed capacity of generation facility (based on solar, wind) shall not be more than thirtyfold of connection contract power of consumption facility that will be linked to related generation facility.
- Moreover, in the case of subscription change regarding the consumption facility/facilities related to generation facility,
 - Connection contract power of new consumption facility/facilities which will be linked to generation facility shall not be less than application based connection contract power capacity. In the contrary case, Connection Agreement shall be cancelled.

Additional Provisions Regarding Share Transfer, Mergers & Acquisitions:

- In case the legal person, who is the owner of the unlicensed generation facility, prefers to merger with all assets and liabilities,
- a) within its own structure, with another legal person who has the all shares,
 - b) under the structure of other legal person who is the owner of the unlicensed generation facility with all shares,

the transaction for merger is done within the scope of the legislation in force but **only under the condition that temporary approval of all of the related generation facilities have been already completed**. At this point, it is important to note that application for legislative procedures of mergers is done to the Related System Operator one month before the starting of merger procedures. Merger procedures and other related legislative procedures are completed simultaneously by the related parties.

- A legal person within the scope of unlicensed regulation, under the condition that temporary approval for all of the generation facilities belonging to that legal person have been completed, may demand whole or partial division in which legal entities hold the whole shares of the legal person. In this situation, division procedures is enforced by legislation in force. At this point, it is important to note that application for legislative procedures of division is done to the Related System

Operator one month before the starting of division procedures. Division procedures and other related legislative procedures are completed simultaneously by the related parties.

▪ **Prohibition on Share Transfer:**

- Share transfer (excluding succession) is prohibited for the renewable energy based generation facilities (solar, wind) for the term starting from the application date until the date of temporary approval of whole generation facilities subject to the application. Succession is the exception to this article.
- In the case of share transfer, Call Letter for Connection Agreement shall be cancelled.
- The share transfers within the scope of this regulation are subject to prior notification (one month before) to the Related System Operator. Moreover, related legal person presents the information and documents of the final shareholding structure to the Related System Operator within the ten business days at the latest after the completion of share transfer.

Additional Provisions Regarding Transparency:

- The amendments also increase the transparency. Some of the examples are as follows:
 - Applications for additional capacities provided by TEİAŞ will be taken three months later than the declaration date.
 - The legal/real persons who apply for project approval and their application date will be published on the web weekly.
 - The online notices of the Related System Operators will be systematically archived on their web pages as monthly and yearly.