

RENEWABLE ENERGY LAW AND INCENTIVES PROVIDED UNDER RENEWABLE ENERGY LAW

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The economical importance of Turkey lies beneath its geographical location. It is situated between where the three old continents, Europe, Asia and Africa meet. Increasing young population and growing economy and industry affects the dynamics of Turkey in a positive way. Such increase and growth requires more energy consumption. Since the fuel required for the operation of the conventional power plants is insufficient in Turkey, the best option to generate electrical energy is to utilize the rich renewable energy resources of Turkey. Moreover, the new trend in all over the world is to produce electrical energy from renewable energy resources, i.e. hydro, wind, sun, geothermal, biomass, biogas, in order to protect the environment and prevent pollution and global warming.

In the light of the aforementioned facts, laws and regulations are enacted in order to set forth the rules, rights, and obligations for generating electrical energy from renewable sources in Turkey. In 2005, *Law on the Usage of Renewable Energy Sources for Generation of Electrical Energy* (“**RESL**”), and *Regulation on determination of Terms and Conditions regarding the issuing of Renewable Energy Source Certificate* (“**RESC Regulation**”) are enacted. Main objectives of RESL are to generalize the use of renewable energy for generating electrical energy, (ii) to protect the environment, (iii) to increase the variety of sources, (iv) to evaluate remedies, and to decrease the emission of greenhouse gases and (v) to improve the generation sector to realize such aims.

Terms and conditions regarding the protection, usage and determination of the geothermal resources shall be regulated by special regulations. The investors aiming to produce the electrical energy by using renewable energy sources, initially, shall obtain a “*Generation License*.” Then, the investors granted by a generation license needs to be awarded with a *Renewable Energy Source Certificate* (“**RES Certificate**”), which identifies type of the source and enables the monitoring of the sale and purchase of electrical energy generated from renewable energy sources in domestic and international markets, by Electricity Market Regulatory Authority (“**EMRA**”).

The procedures and principles for the grant of RES Certificate are set forth by the RES Regulation. Pursuant to RESC Regulation in order to apply for RES Certificate, the required documents have to be submitted to EMRA. Within 30 days following the application, EMRA shall present these documents to the Energy Market Regulation Board (“**Board**”). The Board will decide on the grant of the RES Certificate. If an investor is granted by a RES Certificate, the validity period for that RES Certificate will be one (1) year. The list of the investors which are awarded by RES Certificate are announced by the Board of EMRA including the production quantities, the production period and the cancellation of the licenses.

Preconditions, RESL provides a number of considerable incentives to promote investors who are awarded by RES Certificate. The most significant incentive is the purchase guarantee articulated under Article 6 of the RESL. According to the Article 6 of the RESL each retail seller shall purchase electrical energy from the facilities owning a RES Certificate which are operating for more than ten years. In other words, such buying guarantee is only provided to the renewable energy facilities operating in the relevant sector for less than 10 years.

EMRA publishes the amount of RES Certificated electrical energy which may benefit from incentives stated under the REC Certificate annually. The minimum amount of the RES Certificated electrical energy to be purchased by the retail sellers is the ratio of the amount of the electrical energy sold by the retailer seller in the respective year to the electrical energy sold by retailer sellers in the whole country.

The price applicable to the electrical energy purchased under the RESL for the current year shall be the electricity average wholesale price in Turkey of the previous year as determined by EMRA. However, such price should surpass 5 Euro Cent/kWh and should not exceed 5.5 Euro Cent/kWh. On the other hand, if the renewable energy generation investors would find the opportunity to sell the electrical energy that they produce for a higher rate in the market, they may sell their energy accordingly. Precondition of benefiting from the incentives stated under Article 6 is the commencement of generation of electrical energy by the facility before than Dec 31, 2011. However the RESC Law authorized the Council of Ministers to extend this period for utmost 2 years. Accordingly, the Council of Ministers has extended this period up to 31.12.2013. The draft law includes different prices for purchasing electricity and long period for the enforcement of the regulations under Article 6.

Another incentive is regulated under Article 7 of RESL. Investors who have established an isolated electrical energy facility and grid supported electrical generation facility up to

1000KW for supplying their own needs are not obligated to pay the remuneration for their specific projects i.e. final projects, planning, master plans, preliminary surveying and first auditing, prepared by either General Directorate of State Hydraulic Works or General Directorate of Electrical Power Resources Survey Development of Administration.

The Article 8 titled “Implementations related to Acquisition of Land” of the RESL provides another incentive regarding the lands with the nature of forest under the possession of the Treasury or under the ownership of the State. For such land to be utilized for the purpose of the facility roads for transportation and energy transmission lines up to the grid connection point, a permission may be granted to lease or to establish an easement right by Ministry of Environment and Forestry or Ministry of Finance; provided that the license holder shall pay for the use of such land. An eighty five percent discount over such remuneration applicable to the roads for transportation and energy transmission lines up to the grid connection point regarding fees, lease, and easement right shall apply in the first ten years of the investment and operation period with respect to the facilities which shall be commissioned by 31 December 2012.

In order to increase the production of electrical energy from the renewable energy sources, some changes and regulations are needed in the financial and legal structures of Turkey. Basically, governments must adopt new legislations which will provide the easiest procedure for the development, and mandatory on the infrastructural necessities, in favor of public, and remove the barriers of foreign investment investing in energy. It is as such better to say that not only some specific regulations on the renewable energy sector are necessary but more amendments are needed in the laws regarding the financial policies to bring a more liberal market out.