

Amendments to the Electricity Market Licensing Regulation

The Electricity Market Regulatory Authority introduced amendments to the Electricity Market Licensing Regulation effective as of 23 December 2015. This note provides an overview of the material changes in respect of pre-licence and licence requirements.

1. Application and Pre-Licence Term Requirements

EIA Decision as a Prerequisite. Except for wind, solar, hydroelectric and geothermal power plant pre-licence applications, pre-licence applicants are required to submit the applicable Environmental Impact Assessment (*EIA*) decision on the pre-licence application as opposed to obtaining this during the pre-licence period. Applicable EIA decision in respect of wind, solar, hydroelectric and geothermal power plants should still be obtained during the pre-licence term.

For the existing pre-licence applications which are at the evaluation stage (other than these relating to wind, solar, hydroelectric and geothermal power plants), applicants will have 24 months from 23 December 2015 to submit the EIA decision to the Electricity Market Regulatory Authority (*EMRA*). Otherwise, EMRA will reject the application and return the letter of guarantee (save for force majeure events). EMRA will return other existing pre-licence applications which have not yet reached the evaluation stage for fulfilment of EIA decision requirement.

Incentive for Local Coal. Minimum share capital amount for generation pre-licence and licence applicants for local coal power plants is decreased. Accordingly, the minimum capital should be 1% of the total investment amount for pre-licence applications (which was formerly 5%) and 5% for licence applications (which was formerly 20%).

Wind and Solar Pre-Licence Application Periods and Incomplete Applications. Pre-licence application periods for wind and solar power plants are changed as the first 5 days of April for wind applications (which was formerly the first 5 days of October) and the first 5 days of November for solar applications (which was formerly the last 5 days of October).

EMRA will not grant additional time for completing missing documents and information for wind and solar power plant pre-licence applications and will directly refuse applications which are not made during the required timeline.

Priority. In cases where there is more than one renewable energy pre-licence application in respect of a certain area, priority amongst these applications will be in the following order:

- geothermal energy
- hydraulic
- wind energy
- solar energy

Additionally, the title owner of the relevant land has priority over other applicants in respect of wind and solar power plant pre-licence applications.

Pre-Licence Term Requirements Reduced. Pre-licence holders are no longer required to apply to TEİAŞ or the relevant distribution company for execution of system use agreement or obtain the general staff/military affirmative opinions during the pre-licence term.

2. Pre-Licence and Licence Amendment

Pre-Licence Amendment. Pre-licence amendment application and documentation process is regulated in detail similar to the licence amendment process in respect of (i) applicable periods, (ii) amendment grounds, (iii) evaluation methods and (iv) other requirements.

Advanced Power Plant Constructions. EMRA does not impose a time limit for extension applications, if the power plant construction has been substantially completed but is still unable to be fully completed within the project completion term. The licence holder of the power plant can

apply for an extension of project completion term even after the expiry of the project completion term expires.

3. Share Transfer

New Exemptions for Share Transfers during the Pre-Licence Term. The following changes in the direct or indirect shareholding structure of a pre-licence holder company during the pre-licence period are exempt from share transfer restrictions in addition to the existing exemptions:

- changes due to its or its direct or indirect shareholders' public offerings
- changes due to the exercise of pre-emptive rights by its existing shareholders

No Need for EMRA Approval for Transfer of Publicly Held Shares. EMRA approval is not required for changes in publicly held shares of (i) a licence holder company, and (ii) a licence holder company's shareholder irrespective of the ratio of those shares in the total share capital.

Notification to EMRA for all Changes Relating to Shareholding Structure. EMRA requires to be notified of all changes in the shareholding structures of licence holders such as share transfers and change of control, regardless of the requirement for an EMRA approval.

4. Obligations

Accreditation Certificate. Distribution and authorised supply companies are required to submit their accreditation certificates complying with the conditions under the Regulation to EMRA within 24 months from 23 December 2015.

Registered E-Mail. Pre-licence and licence holders and applicants are required to submit their registered e-mail addresses to EMRA within 2 months from 23 December 2015.

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