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Electricity regulation in Turkey: overview

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OVERVIEW

Electricity market

1. Provide an overview of the electricity market in your jurisdiction, including recent trends over the last 12 months.

Overview

The Turkish electricity market is currently in transition into a fully deregulated market. The liberalisation process started with the enactment of the Electricity Market Law No. 4628 (Electricity Market Law) in 2001, which:

- Introduced a new market structure by increasing the role of domestic and foreign private sector investors and reducing the public sector's share in the electricity market.
- Established the Energy Market Regulatory Authority (EMRA) (*Enerji Piyasası Düzenleme Kurumu*) (EPDK) as an independent regulatory authority.
- Set out the principles to apply during a transition period for the market, which aimed to achieve a smooth transition to a fully liberalised system over time.

Significant progress was made towards the target of liberalisation; however, the electricity market is still dominated by state players. The privatisation of generation assets has been impeded by a series of delays over the last decade due to uncertainties in the legislation, delays in tender processes and financing problems. The delays inevitably triggered stagnation in the entire electricity market. An unsuccessful attempt to start the privatisation of portfolio generation assets owned by the state-owned generation company Electricity Generation Company (*Elektrik Üretim AŞ Genel Müdürlüğü*) (EÜAŞ) was made in 2011. The Prime Ministry Privatisation Administration (*Özelleştirme İdaresi Başkanlığı*) (OIB) recently resumed the generation privatisation with a tender announcement for the same power plant, and is expected to launch the other generation privatisation tenders, which are planned to be tendered as nine different portfolios including thermal and hydroelectric power plants in 2013.

Recent trends

The day-ahead "market" (that is, a financial market where market participants buy and sell energy at binding prices for the following day) started to function and replaced day-ahead "planning" as of 1 December 2011. In addition, the balancing power market (where electricity companies/traders can submit bids and offers to buy and sell energy from the system by adjusting generation or consumption) and the ancillary services markets such as frequency control and demand control, are currently in operation.

The New Electricity Market Law, which was proposed by the Ministry of Energy and Natural Resources (MENR) (*Enerji ve Tabii Kaynaklar Bakanlığı*) (ETKB) to further the liberalisation process, entered into effect on 30 March 2013. See *Question 29, Reform*.

Regulatory structure

2. Describe the regulatory framework for the electricity sector, including the regulatory authorities.

Regulatory framework

The regulatory framework for the electricity sector is mainly governed by the Electricity Market Law No. 6446 dated 30 March 2013 (New Electricity Market Law), and the secondary legislation issued by EMRA as an independent regulatory authority responsible for the regulation and supervision of the electricity market. Current secondary legislation was issued based on the Repealed Electricity Market Law. The New Electricity Market Law envisages that the provisions of current secondary legislation, which are not contrary to the New Electricity Market Law, will be applied until the secondary legislation based on this Law is issued. The amendments to be made in the secondary legislation are envisaged to be completed within six months from the effective date of 30 March 2013.

One of the most important pieces of the implementing legislation of the Electricity Market Law is the Electricity Market Licensing Regulation dated 4 August 2002 (Licensing Regulation), which mainly governs the principles concerning the application, evaluation, issuance and termination of licences for the performance of electricity market activities. Other principal pieces of legislation governing electricity generation activities include:

- Renewable Energy Law No. 5346 (Renewable Energy Law).
- Geothermal Energy Law No. 5686.
- Nuclear Energy Law No. 5710 (Nuclear Energy Law).
- Electricity Market Balancing and Settlement Regulation.

Regulatory authorities

EMRA. EMRA is an independent regulatory authority, which is administratively and financially autonomous and is responsible for the regulation and supervision of the operation of the electricity market in a competitive environment. Upon the effectiveness of the New Electricity Market Law, the Repealed Electricity Market Law is converted into the "Law on Organisation and Duties of the Energy Market Regulatory Authority". Therefore, currently there is a separate law regulating EMRA.



EMRA's authority includes:

- Granting licences to public and private enterprises for their activities in the electricity market (for example, generation, transmission, distribution, supply, import and export of electricity).
- Monitoring and inspecting all market activities.
- Imposing sanctions for non-compliant activities.
- Resolving certain disputes between licence holders.
- Preparing, enforcing and supervising the electricity market legislation.
- Regulating and supervising the tariff pricing mechanism for certain market activities (for example, transmission and distribution).

MENR. MENR is responsible for preparing and implementing energy policies, plans and programmes in co-ordination with its affiliated institutions, such as EÜAŞ, TEDAŞ (state owned distribution company) and TEİAŞ (state owned transmission company), EMRA and other public authorities, such as the High Planning Council, and private entities. Its main tasks include:

- Determining and implementing national energy policy objectives.
- Ensuring co-ordination between related public entities and private entities.
- Supervising all exploration, development, production and distribution activities for energy and natural resources.

See box, *The regulatory authorities.*

ELECTRICITY COMPANIES

Main companies

3. What are the main companies involved in electricity generation, transmission, distribution and supply in your jurisdiction?

Generation

There are five types of market players in the electricity generation sector:

- State-owned EÜAŞ and its subsidiaries (43.1%).
- Build-operate-transfer (BOT) (where under contract with public authorities, a private entity designs, builds, operates and maintains a facility for a set time period) companies and build-operate companies (companies owned by investors that have the right to build and operate thermal (steam) power plants only), which were developed before the Repealed Electricity Market Law was enacted (14.8%).
- Companies operating under Transfer of Operational Rights Agreement (1.5%).
- Independent power producers (IPPs) (35%).
- Autoproducers (5.6%).

Among the IPPs, almost 45% sell electricity in the balancing markets, 40% make direct sales to eligible customers (that is,

customers whose annual consumption is more than 5,000 kWh as of 2013), and the remaining 15% have power purchase agreements with electricity wholesale companies. As of 1 April 2013, EMRA has issued 1,464 generation licences, out of which 87 licences are held by EÜAŞ, and 1,377 by IPPs. The BOT and build-operate model companies operate based on contracts with MENR and public authorities without a generation licence issued by EMRA.

Transmission

Transmission is conducted by the state-owned transmission company *Türkiye Elektrik İletim AŞ* (TEİAŞ), which has a monopoly in the electricity transmission sector. TEİAŞ cannot engage in any other activity in the market. It is not envisaged that TEİAŞ will be privatised under the Repealed Electricity Market Law or the New Electricity Market Law (see *Question 29*).

Distribution

The distribution sector is divided into 21 regions, out of which 13 have been transferred to private operators, and eight are at the transfer stage. Privatisation of these eight regions is expected to be completed within 2013. After their privatisation is completed, there will be no distribution company operated by *Türkiye Elektrik Dağıtım A.Ş.* (TEDAŞ) and the distribution market will be completely privatised. However, TEDAŞ will continue to possess the ownership of the distribution assets and will be permitting the private distribution companies to use them for a certain period of time under a transfer of operation rights model.

Supply

Electricity supply was performed by wholesale and retail companies and these were regulated under the Repealed Electricity Market Law as two separate market activities. However, the New Electricity Market Law combines them under one supply licence (see *Question 29*).

Under the Repealed Law, wholesale activities were performed by the state-owned electricity wholesale company *Türkiye Elektrik Ticaret ve Taahhüt AŞ* (TETAŞ) and private wholesale companies. There are 160 private wholesale companies as of 1 April 2013. Retail sale activities were being performed by distribution companies; however, as of 1 January 2013 only the retail sale companies had the sole authority to perform retail sale activities. Once the New Electricity Market Law goes into effect, companies holding a wholesale and retail sale licence will be issued a supply licence without having to pay a licence issuance fee. The Law does not envisage any time period for issuance of these supply licences.

Under the New Electricity Market Law, holders of a supply licence will be entitled to perform wholesale and/or retail sale activities without being subject to any regional restrictions for eligible consumers. Additionally, the total amount of electricity supplied by a private supply licence holder cannot exceed 20% of the total electricity supplied in Turkey in the previous year.

Unbundling requirements

Electricity distribution companies were entitled to perform distribution, generation and retail sale activities under the same legal entity. However, in accordance with an amendment made to the Electricity Market Law in 2008, these activities had to be unbundled as of 1 January 2013 (*Article 3, Electricity Market Law*). In the current situation, retail sale activities can only be performed by retail sale companies established in accordance with the unbundling requirement subject to a transition period exception until 1 July 2013.

Foreign ownership

4. Are there any restrictions concerning the foreign ownership of electricity companies in your jurisdiction?

Under the Repealed Electricity Market Law, foreign individuals and legal entities were not permitted to have control of the generation, transmission and distribution sectors (*Article 14, Electricity Market Law*). Control included direct, indirect and joint control (*Article 1, Electricity Market Law*). However, in the distribution sector, this limitation was applied only to country-wide control; foreign control was therefore permitted for distribution at regional level. Under the New Electricity Market Law, there is no specific restriction on foreign ownership.

Import of electricity

5. To what extent is electricity imported in your jurisdiction and are there interconnection issues?

General

Import and export of electricity from and to countries that have the required international interconnection can be conducted by supply licensees subject to EMRA approval (*Electricity Market Import and Export Regulation dated 1 June 2011*).

Supply licensees who wish to import or export electricity must apply to EMRA. EMRA then asks for the opinion of both MENR and TEİAŞ and/or the relevant distribution company, as relevant. If the feedback is positive, the application is announced on EMRA's website and evaluated by EMRA.

The following three methods are available for electricity import:

- Non-synchronised parallel (DC) connection.
- Passive isolated region.
- Unit directing method.

Negotiations for Turkey's connection to the European Network of Transmission System Operators for Electricity (ENTSO-E) are currently ongoing. On 18 September 2010, the Turkish power system was synchronised with the interconnected power systems of continental Europe, marking the start of the parallel trial interconnection. The trial interconnection phase will continue until September 2013. A synchronised parallel operation of the Turkish electricity system with its neighbouring countries is conditional on these countries' electricity system operating in accordance with ENTSO-E standards and on the approval of ENTSO-E.

Wheeling charges

Wheeling charges for import and export activities include transmission fees and operation costs.

In addition, import companies may also be required to pay the following fees (*Articles 4 and 20, Import and Export Regulation*):

- Capacity utilisation fee, which is payable only if more than one company applies to benefit from an interconnection capacity.
- Congestion management fee, which is payable to TEİAŞ in exchange for its work in managing the congestion at the interconnection system under certain conditions.

ELECTRICITY GENERATION AND RENEWABLE ENERGY

Sources of electricity generation

6. What are the main sources of electricity generation in your jurisdiction, excluding renewable sources?

There are two main types of sources used for electricity generation excluding renewable energies:

- Natural gas (about 45%).
- Coal (about 28%).

(Source: EMRA.)

Fossil fuels

Fossil fuels constitute about 73% of the entire sources used for electricity generation.

Nuclear fission

Not applicable.

7. Are there any plans to build new nuclear power stations in your jurisdiction?

Government policies

The Nuclear Energy Law permits private sector companies to construct and operate nuclear power plants and incentivises them as follows:

- Each electricity supply licence holder (retail and wholesale licence holders under the Repealed Electricity Market Law) must purchase a certain percentage of their electricity sales from nuclear power plants.
- Excess power generation not covered by bilateral contracts with supply companies will be purchased by TETAŞ.
- The Council of Ministers is authorised to provide certain incentives for investments concerning technology development and production of nuclear fuel as well as training of personnel to be employed in the nuclear power plants.
- If a nuclear power plant is to be constructed on forest land and/or on land under the private ownership of the Treasury or under the control or disposal of the State, the relevant project company will be granted one of the following:
 - a lease;
 - a right-of-way;
 - usufruct rights (right of enjoyment of someone else's property).

The Akkuyu nuclear power plant project

Construction of a nuclear power plant in Akkuyu has been on the government's agenda since 1974. However, attempts to establish the Akkuyu nuclear power project failed in 1974, 1983, 1993 and 2000. The latest attempt for the Akkuyu project started with the TETAŞ tender dated 24 March 2003. Only one bidder submitted a bid and became the successful bidder (Atomstroyexport-Inter Rao-Park Teknik Group (project company)).



TETAŞ cancelled the Akkuyu tender in November 2009 after the Council of State suspended the implementation of certain provisions of the Nuclear Energy Law implementation regulation. The Turkish and Russian governments then started to negotiate an international treaty for a nuclear power plant construction and operation project in Akkuyu, which was signed on 12 May 2010 and entered into force in Turkey on 21 July 2010. The project company made a generation licence application to EMRA on 14 December 2011, and the project development phase is currently ongoing.

The Sinop nuclear power plant project

A tender was planned to be conducted by the government in 2010 for the construction and operation of a nuclear power plant in the Sinop (Sinop project) province. However, to date no tender has been announced. Instead, the Turkish and Korean governments started negotiations of a bilateral treaty for construction and operation of the Sinop project. A memorandum of understanding was signed between the Turkish and Korean governments in March 2010, which was valid for five months. In October 2010, the draft intergovernmental agreement prepared by the Korean company KEPCO for the Sinop project was submitted to the Turkish government and negotiations on the draft began. However, negotiations with Korea were suspended due to disagreement between the parties on material aspects of the Sinop project.

Currently, negotiations are ongoing with technical committees from China and Japan. MENR is planning to conclude the negotiations in the first half of 2013.

Effects of Fukushima

Technical committees from China, Japan and Canada visited Turkey to start negotiations for the Sinop project in September 2012, the negotiations are still ongoing. An intergovernmental agreement is expected to be signed with the selected country in the first quarter of 2013.

The Japanese government declared that Toshiba was willing to participate in the construction of the nuclear power plant in Sinop. MENR then visited Japan, including the Kashiwasaki-Kariva nuclear power plant and held meetings with Toshiba, JICA and TEPCO. However, in August 2011, TEPCO, the operator company of Fukushima Daiichi, withdrew from the Sinop project due to the nuclear disaster in Japan (March 2011). The Japanese government replaced TEPCO, and the negotiations with Japanese government are still ongoing.

Authorisation and operating requirements

8. What are the authorisation requirements to construct electricity generation plants?

A separate licence must be obtained from EMRA to construct and operate a power plant and generate electricity (*Article 3, Electricity Market Law* and *Article 17, Licensing Regulation*).

In addition, there are certain environmental and other permitting requirements to construct electricity generation plants including:

- Affirmative opinion of the General Staff (Turkish Armed Forces).
- Environmental impact assessment (EIA) affirmative decision to be obtained from the Ministry of Environment and Urban Planning.

- “EIA is not required” decision to be obtained from the Ministry of Environment and Urban Planning.
- Zoning plan to be obtained from the relevant municipality.
- Construction licence to be obtained from the relevant municipality.

9. Are there any requirements to ensure new power stations are ready for carbon capture and storage (CCS) technology, or requiring a plant to retrofit CC technology once this is ready?

Under current legislation there is no requirement regarding CC for power stations. However, if CCS technology is used in a power plant, that power plant can attend the carbon market on a voluntary basis and can obtain a carbon credit certificate (which represents the right to emit one tonne of carbon dioxide (CO₂)).

10. What are the authorisation requirements to operate electricity generation plants?

In addition to a generation licence issued by EMRA, the following authorisations, among others, are required to operate a power plant:

- Workplace opening and operation permit from the relevant municipality.
- Building use permit from the relevant municipality.
- Temporary and permanent acceptance by MENR.
- Environmental permit and licence certificate from the Ministry of Environment and Urban Planning.

11. What are the main ongoing requirements?

Annual licence fee

Licence holders must pay annual licence fees to EMRA of Krs0.003 for each generated kWh (rates for 2013) (*Article 12, Licensing Regulation*).

Reports

Generation companies must prepare an annual activity report for their activities in the previous year and submit that report to EMRA in April of each year. In addition to an annual report, generation licence holders must prepare a progress report twice a year (in January and July) and submit it to EMRA.

Insurance

Generation companies must obtain all-risk insurance for the power plant covering risks such as natural disasters, fire and accident (*Article 39, Licensing Regulation*).

Approval requirement for share transfers

Any direct or indirect transfer of 10% or more of the shares of a licence holder is subject to prior approval by EMRA (*Article 47, Licensing Regulation*). This rate is 5% for publicly held companies.

Balancing and settlement unit applications

Market participants (which include generation companies) must (*Article 10, Balancing and Settlement Regulation*):

- Apply to the Electricity Market Financial Settlement Centre (*Piyasa Mali Uzlaştırma Merkezi*) (PMUM), which is to be replaced by a new entity called EPIAŞ under the New Electricity Market Law, for registration as a market participant 15 days before starting operations at the power plant.
- Execute a market participation agreement and a day-ahead market participation agreement, which are all standard form agreements approved by EMRA.
- Register as a financial settlement unit. Market participants generating or consuming energy are registered and defined as a financial settlement unit for settlement calculations.

Obligation to execute auditing agreements

Electricity generation licence holders must execute auditing agreements with independent auditing institutions for each fiscal period, which generally corresponds to the calendar year, within the first three months of each fiscal year. This obligation does not apply for the fiscal year when the generation licence is obtained; it becomes effective starting from the following fiscal period.

Market share limitation

The aggregate market share of a private sector generation company, together with its affiliates, cannot exceed 20% of the total installed electricity generation capacity in Turkey in the previous year.

12. What requirements are there concerning interconnection of generation to the transmission grid?

Generation facilities, in their function as transmission system user and/or a distribution system user, must execute either one or both of the following (*Electricity Market Grid Regulation dated 22 January 2003*):

- Connection and system utilisation agreement with TEİAŞ for transmission services.
- Connection and system utilisation agreement with the distribution company for distribution services.

Connection and system utilisation agreements are form agreements approved by EMRA.

Renewable energy

13. Are renewable sources used to generate electricity in your jurisdiction?

Several types of renewable energy sources, including hydropower, wind, geothermal, solar and biomass, are used to generate electricity. In 2011, the percentage of total electricity generation was as follows:

- Hydropower: 22.8%.
- Wind: 2.1%.
- Geothermal, solar and biomass: 0.3%.

(Source: EMRA.)

14. Are there government policies and/or incentives in place to encourage the use of renewable energy?

Government policies/incentives

The following incentives encourage use of renewable energy, including:

- Purchase guarantee.
- Minimum price guarantee.
- Priority to connection to the grid.
- Domestic component incentive.
- Certain incentives in land acquisition.

Purchase guarantee. Electricity suppliers (supplying electricity to end users) must purchase a certain amount of electricity, pro rata to the percentage of the amount sold by a supplier in the total electricity sold by all suppliers in the previous year, from renewable energy companies participating in the Renewable Energies Support Mechanism (YEKDEM) (*Article 6, Renewable Energy Law*). This purchase guarantee is applicable for the first ten years of operation of renewable energy companies.

Minimum price guarantee. There is a minimum price guarantee for electricity generated by renewable energy companies for the first ten years of operation as follows (*Article 6, Renewable Energy Law*):

- Hydropower: US\$0.073/kWh.
- Wind: US\$0.073/kWh.
- Geothermal: US\$0.105/kWh.
- Solar: US\$0.133/kWh.
- Biomass (including landfill gas): US\$0.133/kWh.

These figures apply only for power plants that will be commissioned on or before 31 December 2015. The fixed guaranteed prices and the terms applicable for power plants to be commissioned after 31 December 2015 will be regulated by decrees of the Council of Ministers. However, these prices will not exceed the above-stated prices.

Use of domestic equipment and materials. There is an additional incentive for projects to be commissioned by 31 December 2015 that use mechanical and/or electromechanical components produced in Turkey (*Article 6/B, Renewable Energy Law*). The level of additional incentives will depend on the share of domestically produced components used in the plant. The additional incentives will be available for five years from the date of commencement of commercial operation of the plant. At least 55% of the equipment must be produced in Turkey in order to benefit from this incentive.

Priority for connection to the grid. TEİAŞ and/or the legal entities holding a distribution licence must give priority to facilities generating electricity from renewable energy resources for their connection to the transmission and/or distribution systems (*Article 38, Licensing Regulation*).

Renewable energy targets. Turkey has adopted concrete targets to increase the share of renewable energy sources. In addition, progressive legislation was introduced to set up a favourable legal

and regulatory framework that will eventually lead to increased use of renewables, such as the incentive regulations envisaged by the Renewable Energy Law.

Generally, the Electricity Market and Security of Supply Strategy Paper dated 2009 stipulates that the share of renewables in power generation will reach at least 30% by 2023. In addition, by 2023 (*Electricity Market and Security of Supply Strategy Paper dated 2009*):

- Technologically and economically feasible hydro-electric potential will be totally exhausted (about 140 TWh).
- Wind power capacity will reach 20,000 MW.
- 600 MW geothermal potential will come online.
- The necessary steps will be taken to promote electricity generation based on solar energy.

As a result of these targets and consequent initiatives, wind power capacity exceeded 1,930 MW as of September 2012 from an almost zero level in 2002. In addition, in the past two years 2,140 MW capacity based on renewables was added to Turkey's installed capacity (that is, the total output a facility can produce measured in MW) (*Source: EMRA*).

See box, *Renewable energy sources*.

15. What are the main obstacles to the development of renewable energy in your jurisdiction?

The main obstacles to the development of renewable energy in Turkey are as follows:

- Minimum guaranteed prices for renewable energy projects are lower than expected by market players (*see Question 14*).
- Projects are generally challenged with administrative lawsuits especially on an environmental basis.
- There are technical restrictions regarding the capacity available for the connection of renewable energy projects to the grid.
- For wind power projects, the licensing process has taken a long time due to frequent changes in legislation, which caused uncertainties and additional costs to investors.

ELECTRICITY TRANSMISSION

Authorisation and operating requirements

16. What are the authorisation requirements to construct electricity transmission networks?

The construction of transmission networks requires certain environmental and other permits, such as the EIA affirmative decision or EIA is not required decision, from the Ministry of Environment and Urban Planning, and zoning plan and construction licence, from the relevant municipality.

17. What are the authorisation requirements to operate electricity transmission networks?

TEİAŞ has a monopoly in the electricity transmission sector. TEİAŞ also operates on a transmission licence issued by EMRA (therefore, it is also subject to the jurisdiction of and legislation issued by EMRA).

In addition to a transmission licence and the workplace opening and operation permit, and building use permit to be obtained from the relevant municipality, among others, are also required to operate transmission networks.

18. What are the main ongoing requirements?

Annual licence fee

TEİAŞ must pay annual licence fees to EMRA of Krs0.003 for each transmitted kWh (rates for 2013) (*Article 12, Licensing Regulation*).

Reports

TEİAŞ must prepare an annual activity report in relation to its activities in the previous year and submit it to EMRA in April of each year (*Article 45, Licensing Regulation*).

Insurance

TEİAŞ must obtain all-risk insurance for transmission assets covering risks such as natural disasters, fire and accident (*Article 39, Licensing Regulation*).

Non-discrimination in connections

TEİAŞ must evaluate requests for connection to the transmission grid on a non-discriminatory basis (*Article 22, Licensing Regulation*).

Rates

19. How are the rates and conditions for the transmission of electricity regulated?

There are two types of electricity transmission fees:

- Transmission fees.
- Operation costs.

They are both determined by EMRA on an annual basis. Turkey is divided into 14 regions for the applicable wheeling charges.

ELECTRICITY DISTRIBUTION

Authorisation and operating requirements

20. What are the authorisation requirements to construct electricity distribution systems?

The construction of distribution networks requires certain environmental and other permits, such as the EIA affirmative decision or a decision that an EIA is not required, from the Ministry of Environment and Urban Planning and zoning, planning and construction licence, from the relevant municipality.

21. What are the authorisation requirements to operate electricity distribution systems?

Distribution companies must obtain a distribution licence for each distribution region. In addition, the workplace opening and operation permit, and building use permit to be obtained from the relevant Municipality, among others, are also required to operate distribution networks.



22. What are the main ongoing requirements?

Preparation of investment plans

Distribution companies must prepare their investment plans and submit them to EMRA for its approval (*Article 24, Electricity Market Distribution Regulation*).

Insurance

Distribution companies must obtain all-risk insurance for distribution assets covering risks such as natural disasters, fire and accident (*Article 39, Licensing Regulation*).

Annual licence fee

Distribution licence holders must pay annual licence fees to EMRA of Krs0.003 for each kWh distributed (rates for 2013) (*Article 12, Electricity Market Licensing Regulation*).

Balancing and settlement unit applications

Distribution companies must register with PMUM and operate as a market participant and financial settlement unit (*Article 17, Balancing and Settlement Regulation*).

Connection and system utilisation agreements

Distribution companies must execute (*Article 8 and Temporary Article 5, Grid Regulation*):

- Connection agreements with TEİAŞ for transmission services.
- Connection and system utilisation agreement with the distribution system users.

Connection and system utilisation agreements are form agreements approved by EMRA.

Preparation of reports

Distribution companies must prepare an annual activity report for its activities in the previous year and submit it to EMRA in April of each year (*Article 45, Licensing Regulation*).

Obligation to ensure supply reliability and quality

Distribution companies are responsible for the security of electricity supply as well as the commercial and technical quality of the distributed electrical energy (*Article 2 and 4, Supply Reliability and Quality Regulation*). The Supply Reliability and Quality Regulation stipulates, among other things, the conditions for supply reliability, electricity cuts and quality criteria.

Non-discrimination in connections

Distribution companies must evaluate requests for connection to the distribution network on a non-discriminatory basis (*Article 25, Licensing Regulation*).

Rates

23. How are the rates and conditions for the distribution of electricity regulated?

Distribution activities are subject to tariff regulation by EMRA (*Article 5, Electricity Market Tariffs Regulation*). Distribution

THE REGULATORY AUTHORITIES

Energy Market Regulatory Authority (EMRA) (*Enerji Piyasası Düzenleme Kurumu*) (EPDK)

Address. İşçi Blokları Mahallesi Muhsin Yazıcıoğlu Caddesi, (Eski 1483 Cd.) No: 51/C 06530, Yüzüncüyıl, Çankaya, Ankara, Turkey
T +90 312 201 4001
F +90 312 201 4050
W www.epdk.gov.tr

Main responsibilities. EMRA is the independent regulatory authority responsible for regulation and supervision of the electricity market in a competitive environment. EMRA is authorised to issue:

- Secondary legislation concerning the operation of the energy market.
- Licences to legal entities to perform electricity market activities.

Ministry of Energy and Natural Resources (MENR) (*Enerji ve Tabii Kaynaklar Bakanlığı*) (ETKB)

Address. Türk Ocağı Caddesi No: 2 06100, Çankaya, Ankara, Turkey
T +90 312 212 6420
F +90 312 222 5760
W www.enerji.gov.tr

Main responsibilities. MENR prepares and implements energy policies, plans and programmes in co-ordination with its affiliated institutions, EMRA, and other public and private entities.

tariffs are prepared by distribution companies and submitted to EMRA for its approval.

A transitional price equalisation mechanism is applied so that consumers buying electricity on the basis of regulated tariffs are not exposed, partly or completely, to price differences that may be caused by cost differences between distribution areas (*Temporary Article 1, New Electricity Market Law*). The transitional period of the price equalisation mechanism has been extended until the end of 2015 first by Law No. 6408 and then the New Electricity Market Law (*see Question 29*). Cross subsidisation will be implemented among subscriber groups during this period.

ELECTRICITY SUPPLY

Authorisation and operating requirements

24. What are the authorisation requirements to supply electricity distribution systems?

Electricity supply was performed by wholesale and retail companies under the Repealed Electricity Market Law. These were regulated as two separate market activities. However, the New Electricity Market Law combines them under one "supply licence" (*see Question 29*). TETAŞ and public and private supply companies must obtain a supply licence from EMRA. Current wholesale and retail sale licences will be converted into supply



licences by EMRA under the New Electricity Market Law; however, no certain period is envisaged for conversion.

25. What are the main ongoing requirements?

Annual licence fee

Wholesale and retail licence holders must pay annual licence fees to EMRA of Krs0.003 for each sold kWh (rates for 2013) (*Article 12, Licensing Regulation*).

Reports

Wholesale and retail licence holders must prepare an annual activity report of their activities in the previous year and submit it to EMRA in April of each year (*Article 45, Licensing Regulation*). In addition, wholesale companies must provide information regarding their eligible customers and their consumption amounts to the distribution companies to which these eligible customers are connected.

Balancing and settlement unit applications

Wholesale and retail companies must register with PMUM (EPIAŞ under the New Electricity Market Law) and operate as a market participant and financial settlement unit (*Article 10 and 17, Balancing and Settlement Regulation*).

Market share limitation

The total amount of electricity purchased by private sector supply licence holders, cannot exceed 20% of the total electricity consumed in Turkey in the previous year.

Obligation to purchase energy from renewable, nuclear and major local lignite plants

Electricity suppliers must purchase electricity from renewable energy companies in an amount equal to a certain percentage of the electricity that they sold in the previous year (*Article 6, Renewable Energy Law*). In addition, TETAŞ must purchase the electrical energy generated by nuclear power plants and lignite (brown coal) fired power plants with more than 1,000 MW installed capacity (*Article 4 and Temporary Article 2, Nuclear Energy Law*). Retail companies must sign bilateral power purchase agreements with TETAŞ to purchase the electricity purchased by TETAŞ, pro rata to their percentage in the total electricity consumption of Turkey in the previous year (*Article 4 and Temporary Article 2, Nuclear Energy Law*).

Trading between generators and suppliers

26. How is electricity trading (between generators and suppliers) regulated?

Public energy utilities hold a dominant position in the generation and wholesale markets. Most of the agreements currently in place are between a generation company or a wholesale company and a distribution company or an end user (bilateral energy sales agreements). European Federation of Energy Traders (EFET) standard agreements are not therefore commonly used in the Turkish electricity markets.

There is no standard form for bilateral energy sales agreements. Their form and terms are subject to negotiation between the parties. In addition, EMRA does not have supervisory power over the terms of these agreements signed by private sector wholesale companies.

ONLINE RESOURCES

W www.emra.org.tr

Description. This is the official website of the Republic of Turkey Energy Market Regulatory Authority (EMRA). English translations of legislation are available on this website. However, these translations are not always accurate or updated and are provided for guidance only.

W www.enerji.gov.tr/index.php?dil=en

Description. This is the official website of the Ministry of Energy and Natural Resources (MENR). The official language is Turkish. However, there is an English version that includes certain parts of the website. The translations on the website and the English version of the website are not binding.

Bilateral energy sales agreements of TETAŞ are subject to EMRA's approval. However, bilateral energy sales agreements signed by private sector wholesale companies are not.

Content of form agreements for retail companies' sales to non-eligible customers are subject to EMRA approval.

Rates and conditions of sale

27. How are the rates and conditions of sale regulated at the consumer and wholesale level?

Consumer

Retail tariffs to non-eligible consumers are subject to EMRA regulation.

Wholesale

TETAŞ tariffs are subject to EMRA approval. However, tariffs of private wholesale companies, of which licences will be converted into supply licences, are not regulated.

In practice, EMRA's tariff regulation over the wholesale tariff of TETAŞ also affects the prices set by private wholesale companies as TETAŞ is a considerable market player with 40% market share (*Source: TETAŞ*).

TAX ISSUES

28. What are the main tax issues arising on electricity, generation, distribution and supply?

There are no general tax incentives applicable for energy projects or renewable energy companies. However, generation companies that commission their power plants by the end of 2015 are exempt from stamp duty for agreements and other documents signed at the investment stage of the project (*Temporary Article 4, New Electricity Market Law*). In addition, the unbundling transactions of distribution companies are exempt from taxes and duties (*see Question 29*).

In addition, some of the water utilisation agreements signed for hydropower projects are exempt from stamp duty. Transactions

conducted to prepare distribution and generation assets for privatisation are also exempt from some taxes. Market players, and especially renewable energy companies, expect that further tax incentives will be provided.

REFORM

29. What reform proposals are there for the regulation of the electricity sector?

The New Electricity Market Law entered into effect on 30 March 2013. Other than the provisions related to the organisation, powers and duties of EMRA, which remain in effect, the New Law repeals and replaces all provisions of the Repealed Electricity Market Law. The New Law includes certain substantial changes in the current electricity market system, including:

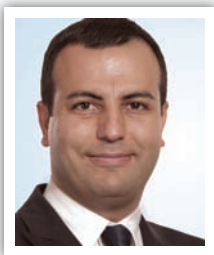
- Types of licences.
- Introduction of a pre-licensing process.
- Extended deadlines for some incentives.

In addition, Law No. 6408 was enacted by Parliament on 22 January 2013 to remedy certain deficiencies in the Electricity Market Law until the draft law was enacted, including:

- Extending the period of stamp tax exemption for generation companies and extending the period of the price equalisation mechanism for tariffs effective until 31 December 2015.
- Introducing a tax exemption for the unbundling transactions of distribution companies (that is, unbundling of distribution and retail sale activities) as of 1 January 2013.

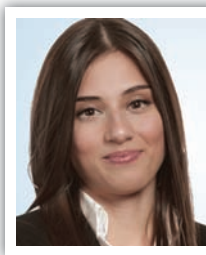
The same extensions are present under the New Law. The New Law also provides an extension through 31 December 2023 for the term of corporate tax and value added tax exemptions in the transfer, merger or demerger of licence holders as part of the privatisation process for generation and distribution companies.

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Recent transactions

- Representing Baymina, the project company operating a 770 MW natural gas combined cycle power plant on a build-operate basis in Ankara.
- Representing two major power generation companies on the operation of natural gas combined cycle power plants on a build-operate-transfer basis.
- Representing Enerjisa, an energy consortium of Sabancı Holding and Verbund, on the privatisation of distribution regions as well as the financing of certain generation projects in Turkey.
- Representing E.On Energie on the development of a combined cycle gas turbine project in Denizli.
- Representing Statkraft on the development and operation of certain hydropower projects in Turkey.

Qualified. Turkey, Solicitor, 2011

Areas of practice. Power; renewable energy.

Recent transactions

- Representing Baymina, the project company operating a 770 MW natural gas combined cycle power plant on a build-operate basis in Ankara.
- Representing Uni-Mar, the project company operating a 500 MW natural gas combined cycle power plant on a build-operate-transfer basis in Turkey.