

# Egypt

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## 1 Policy and law

### What is the government policy and legislative framework for the electricity sector?

The current Egyptian government policy is to implement an electric power strategy including plans and programmes that create a suitable institutional framework, secure electric power supplies, encourage investments, research and development, raise efficiency, protect competition, preserve the environment and enhance cooperation with other countries in the field of electricity.

A complementary aspect is the government's energy diversification policy, which focuses on different sources for generation of electricity beyond the usual gas-fired power plants or heavy oil-fired power plants. This includes considering coal-fired power plants, nuclear energy generation and a very particular focus on renewable energy generation.

Electricity activities in Egypt are governed by several laws and decrees, most notably Electricity Law No. 87 of 2015 (the Electricity Law). This law was passed to better organise the legislative framework for companies operating in the sector. The Electricity Law regulates the generation, transmission and distribution of electricity. The regulatory authority for both the public and private sector is the Egyptian Electric Utility & Consumer Protection Regulatory Agency (the EgyptERA).

## 2 Organisation of the market

### What is the organisational structure for the generation, transmission, distribution and sale of power?

The Ministry of Electricity and Energy (MOEE) sets policies that identify electrical capacity needs in conjunction with EgyptERA, the regulator responsible for the issuance of licences, approvals and general regulation of electricity generation, transmission and distribution. EgyptERA reports to, and follows the policy objectives of, MOEE pursuant to the Electricity Law.

The main publicly owned company operating in the electricity sector is the Egyptian Electricity Holding Company (EEHC). EEHC owns all government-owned power generation and distribution companies. Until recently, EEHC used to own the Egyptian Electricity Transmission Company (EETC), which has a monopoly over the construction, operation and maintenance of transmission facilities and the power grid. Under the new Electricity Law, EETC was spun off from EEHC in order to separate electricity generation and distribution (handled by EEHC) from transmission, which is now exclusively handled by EETC.

## Regulation of electricity utilities – power generation

### 3 Authorisation to construct and operate generation facilities

#### What authorisations are required to construct and operate generation facilities?

Electricity generation activities require the issuance of a generation license by EgyptERA. EgyptERA's board sets out the terms, conditions and requirements for the issuance of generation licences and such requirements are published in the Official Gazette. Any application to EgyptERA for a generation license shall be decided within a maximum period of 60 days starting from the date of completion, by the

applicant, of all the necessary applications and providing the applicant submits all supplementary documents required under the rules set by EgyptERA's board.

With regards to nuclear power plants, the generation licence will also require the approval of the Nuclear and Radiation Supervisory Authority (NRSA), while a generation licence for renewable energy power will require the approval of the New and Renewable Energy Authority (NREA).

EgyptERA's decisions regarding licences are published in the Egyptian Official Gazette and a widely available daily newspaper. Granting a licence should not result in the creation of any monopolistic status in the geographic zone of the licensee and any electricity generation activities undertaken in Egypt are required to be done through an Egyptian joint stock company.

## 4 Grid connection policies

### What are the policies with respect to connection of generation to the transmission grid?

The Electricity Law emphasises that EETC exclusively undertakes power transmission activities. Generating facilities have to comply with the requirements of EETC when constructing their interconnection facilities. The electricity transmission system must also comply with any applicable environmental standards and must ensure equal opportunities while maintaining the interests of the electricity producers and consumers.

## 5 Alternative energy sources

### Does government policy or legislation encourage power generation based on alternative energy sources such as renewable energies or combined heat and power?

Yes – this was exactly the reason for passing Law No. 203 of 2014 (the Renewable Energy Law). The Renewable Energy Law contains an incentive package for electricity generation from renewable sources, and provides the regulatory framework for renewable energy electricity generation projects. Specifically, it sets out the following: (i) procedures for the development and completion of renewable energy generating facilities; (ii) the mechanism for land allocation between developers of and investors in such facilities; (iii) obligations of the developers and investors; (iv) the role of EgyptERA; (v) the role of EETC; and (vi) the role of the cabinet of ministers in approving such facilities.

Moreover, the Egyptian Constitution stipulates that the state shall make the best use of renewable energy sources, motivate investment therein and encourage relevant scientific research.

In 2015, Egypt launched a feed-in tariff programme which offered lucrative tariff rates for private sector players who were interested in the financing, construction and operation of renewable energy power generation facilities. Multiple foreign investors in the renewables field applied and qualified under the programme. Only three companies managed to achieve financial close under the first round (due to certain legal requirements imposed by MOEE). However, the second round, which offers a lower tariff rate, is currently ongoing with almost 25 developers involved with a number of international financial institutions (such as IFC and EBRD) to achieve financial close for their projects.

## 6 Climate change

**What impact will government policy on climate change have on the types of resources that are used to meet electricity demand and on the cost and amount of power that is consumed?**

The government is currently quite focused on energy diversification options to generate electricity including a particular focus on renewable energy generation (see question 5).

However, the government is also looking for other options such as using coal-fired power plants. In order to mitigate the environmental risks involved, the Egyptian parliament has passed amendments to existing environmental law, to include guidelines for using coal in power generation.

In addition, to meet electricity demand in Egypt and incentivise renewable energy production, the recently passed new investment law provides certain incentives and guarantees for electricity and power businesses. Under the new investment law, electricity producers or distributors in the field of renewable energy enjoy tax incentives in the form of a deduction from net taxable income amounting to 30 per cent of investment cost.

However, it is likely that the majority of electricity generation in the short- and mid-term will continue to rely on fossil-based energy sources.

## 7 Storage

**Does the regulatory framework support electricity storage including research and development of storage solutions?**

Electricity storage is not particularly regulated under the current legislative framework.

## 8 Government policy

**Does government policy encourage or discourage development of new nuclear power plants? How?**

The legal regime for nuclear energy and nuclear power plants in Egypt is quite extensive. The construction and operation of nuclear power plants is governed by Law No. 7 of 2010 Regulating Nuclear and Radioactive Activities, and is subject to the jurisdiction of the MOEE, represented by the Nuclear Power Plants Authority and Nuclear and Radioactive Supervision Authority. In November 2015, the government entered into an agreement with the Russian company, Rosatom, to construct Egypt's first nuclear power plant. The plant is expected to be located in El-Dabaa on the Mediterranean coast, but further details of the transaction, including its expected completion date, are not yet publicly available.

## Regulation of electricity utilities - transmission

### 9 Authorisations to construct and operate transmission networks

**What authorisations are required to construct and operate transmission networks?**

Under the Electricity Law, EETC has a monopoly over the construction, operation and maintenance of transmission facilities and the power grid. All private sector power generation facilities are required to build interconnection facilities in accordance with the applicable Egyptian laws, and requirements of EETC and the grid code.

### 10 Eligibility to obtain transmission services

**Who is eligible to obtain transmission services and what requirements must be met to obtain access?**

See question 9.

### 11 Government transmission policy

**Are there any government measures to encourage or otherwise require the expansion of the transmission grid?**

See question 9.

Egypt is part of the Nile Basin Initiative and has announced tentative plans to interlink its transmission grid with certain countries within the intergovernmental partnership. Egypt's electricity transmission grid is currently connected to Jordan, Syria, Iraq, Turkey and Libya and it has plans to connect to Saudi Arabia's grid as well.

## 12 Rates and terms for transmission services

**Who determines the rates and terms for the provision of transmission services and what legal standard does that entity apply?**

The Electricity Law stipulates that EETC shall operate the electricity transmission system and ensure equal connection, access and use are afforded to generators and consumers. Transmission services charges are proposed by EETC but the charges must be consistent with the economic principles as approved by EgyptERA.

## 13 Entities responsible for grid reliability

**Which entities are responsible for the reliability of the transmission grid and what are their powers and responsibilities?**

See question 9.

## Regulation of electricity utilities - distribution

### 14 Authorisation to construct and operate distribution networks

**What authorisations are required to construct and operate distribution networks?**

Electricity distribution activities require the issuance of a distribution licence by EgyptERA. EgyptERA's board sets out the terms, conditions and requirements for the issuance of distribution licences and such requirements are published in the Official Gazette. All Applications to EgyptERA for a distribution licence are decided within a maximum period of 60 days starting from the date of completion, by the applicant, of all the necessary applications, including the applicant providing all supplementary documents required under the rules set by EgyptERA's board.

### 15 Access to the distribution grid

**Who is eligible to obtain access to the distribution network and what requirements must be met to obtain access?**

EETC shall, without favouritism, permit third parties to use its networks for the purpose of providing electricity distributors and consumers with their electricity requirements, in accordance with the grid code and rules set by EETC which include consideration based on economic principles approved by EgyptERA.

### 16 Government distribution network policy

**Are there any governmental measures to encourage or otherwise require the expansion of the distribution network?**

The new Electricity Law encourages private sector participation in the expansion and development of the distribution network.

### 17 Rates and terms for distribution services

**Who determines the rates or terms for the provision of distribution services and what legal standard does that entity apply?**

The Electricity Law distinguishes between:

- (i) qualified consumers (such as industrial plants), who have the freedom to contract with any third party to cover their electrical capacity requirements (Qualified Consumers); and
- (ii) unqualified consumers, who are obliged to contract with one of the distributors located in their geographical location (Unqualified Consumers).

The Electricity Law stipulates that licensees shall distribute electricity, and the EETC shall feed Unqualified Consumers with electricity, at the various voltages in the geographic zone described in the licences and according to the contracts and tariffs set by EgyptERA. If the cabinet of ministers determines a tariff that is less in value than the tariff adopted by EgyptERA, the state shall pay the difference between the two tariffs to the licensees, in accordance with the rules and procedures set forth in the executive regulations. However, with regards to Qualified Consumers, the rates are not set by EgyptERA and can be agreed between the distributor and the Qualified Consumer directly, provided

the agreements are in the form approved by EgyptERA and in accordance with the transmission and settlement rules set by EgyptERA.

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### Regulation of electricity utilities – sales of power

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#### 18 Approval to sell power

##### What authorisations are required for the sale of power to customers and which authorities grant such approvals?

All electricity sale activities require the issuance of a sale licence by EgyptERA. EgyptERA's board sets out the terms, conditions and requirements for issuance of sale licences and such requirements are published in the Official Gazette. All applications to EgyptERA for a distribution licence are decided within a maximum period of 60 days starting from the date of completion, by the applicant, of all the necessary applications including providing all supplementary documents required under the rules set by EgyptERA's board.

#### 19 Power sales tariffs

##### Is there any tariff or other regulation regarding power sales?

The EgyptERA sets the electricity sale tariff rate for Unqualified Consumers, while the tariff applicable to Qualified Consumers is subject to commercial agreement with sellers. Egypt has recently adopted a law that will gradually remove government subsidies for the sale of electricity by 2019.

#### 20 Rates for wholesale of power

##### Who determines the rates for sales of wholesale power and what standard does that entity apply?

There is no particular regulation for sales of wholesale power.

#### 21 Public service obligations

##### To what extent are electricity utilities that sell power subject to public service obligations?

Electricity industry licensees are obliged to make services available to consumers/users without discrimination. However, under the Electricity Law, electricity utilities are considered public utilities operating within the framework of the duly approved electric power strategies. Therefore, EETC must operate an electricity transmission system that ensures equal opportunities and protects the interests of the electricity producers and consumers. As a matter of law, EETC shall meet the electricity needs of the market and cooperate with MOEE in studying expansion of electricity production and transmission services so as to meet the needs of consumers, and prepare an annual report on electricity-feeding security with a forecast of future electric loads and the required additional production capacities that are needed to face such loads, irrespective of whether these capacities are in the process of construction or planning.

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### Regulatory authorities

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#### 22 Policy setting

##### Which authorities determine regulatory policy with respect to the electricity sector?

MOEE and EgyptERA have the primary responsibility for determining regulatory policy with respect to the electricity sector (see question 2).

#### 23 Scope of authority

##### What is the scope of each regulator's authority?

##### (a) MOEE

To design a policy and set up a general plan so as to keep pace with current scientific and technological developments and supervise the implementation of such policy along with monitoring and following up on the various aspects of activities in the field of electricity.

##### (b) EgyptERA

To regulate, monitor and oversee all issues related to electric power in terms of production, transmission, distribution and consumption so as to secure its availability and continuation in order to satisfy various types of requirements and uses at the most reasonable prices and in an

environment-friendly manner, taking into consideration the interests of consumers as well as the interests of power producers, transmitters and distributors.

##### (c) EETC

The Electricity Law emphasises that the EETC exclusively undertakes power transmission activities. Generating facilities have to comply with the requirements of EETC when constructing their interconnection facilities. The electricity transmission system must comply with applicable environmental standards and must ensure equal opportunities while maintaining the interests of the electricity producers and consumers.

##### (d) NREA

NREA is the authority responsible for the implementation, supervision and qualification of any new and renewable energy production facilities (including wind and solar energy projects).

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#### 24 Establishment of regulators

##### How is each regulator established and to what extent is it considered to be independent of the regulated business and of governmental officials?

EgyptERA was set up by virtue of the Electricity Law. Pursuant to the Electricity law, EgyptERA is defined as an independent public entity (independent from the MOEE) and its board is composed of 12 members who are appointed by the Minister of Electricity and Energy. The board composition appears to be balanced to preserve the rights of consumers and producers:

- four members are appointed by virtue of their official position, namely the chairman of the Egyptian Competition Authority (ECA), the chairman of the Egyptian Consumer Protection Authority (ECPA), the chairman of the Egyptian Federation of Industries (EFI) and the chairman of the Egyptian Federation of Chambers of Commerce (EFCC);
- three members elected to represent the electricity sector are chosen by the Minister of Electricity and Energy;
- a further four members are also elected by the Minister of Electricity and Energy, who have expertise in technical, financial, legal and civil society matters, and who are not working for the electricity public sector; and
- the executive chairman is chosen by the Minister of Electricity and Energy.

EETC is incorporated as a publicly owned company. It was originally 100 per cent owned by EEHC and falls under its umbrella. However, the Electricity Law brought about a spin-off of EETC from EEHC.

NREA remains a governmental authority under the MOEE umbrella.

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#### 25 Challenge and appeal of decisions

##### To what extent can decisions of the regulator be challenged or appealed, and to whom? What are the grounds and procedures for appeal?

In case of a dispute between the different actors in the electricity sector, a committee within EgyptERA shall be formed in order to settle such disputes. Such committee shall issue its decisions within 60 days of the application date. In addition, various other laws contain relevant dispute resolution mechanisms, such as the Ministry of Investment's dispute resolution committees.

Decisions given by EgyptERA can be classified as administrative decisions, and are subject to the judicial review of the State Council, pursuant to article 10 of the State Council Law No.47 of 1972.

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### Acquisition and merger control – competition

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#### 26 Responsible bodies

##### Which bodies have the authority to approve or block mergers or other changes in control over businesses in the sector or acquisition of utility assets?

Although the Electricity Law is not very clear as to the extent of EgyptERA's power to block mergers or other changes of control, it does

give EgyptERA the power to ratify any changes of ownership or control in licenced entities.

Moreover, one of the objectives of EgyptERA is to ensure free competition (note the board has the chairman of ECA as a member). That being said, ever since the incorporation of ECA there has been confusion as to whether ECA has overall jurisdiction over competition-related matters or whether the relevant regulators in each sector (such as EgyptERA) would have such jurisdiction.

## 27 Review of transfers of control

**What criteria and procedures apply with respect to the review of mergers, acquisitions and other transfers of control? How long does it typically take to obtain a decision approving or blocking the transaction?**

The Electricity Law does not go into such detail.

## 28 Prevention and prosecution of anti-competitive practices

**Which authorities have the power to prevent or prosecute anti-competitive or manipulative practices in the electricity sector?**

EgyptERA aims to preserve a framework of free and legitimate competition. It is also worth noting that EgyptERA is managed by a board of directors that includes the chairman of ECA.

Moreover, EETC is required to produce an annual report on the procedures undertaken to ensure anti-favouritism practices.

## 29 Determination of anti-competitive conduct

**What substantive standards are applied to determine whether conduct is anti-competitive or manipulative?**

Under Egyptian competition law, the agreements/contracts between a person and any of its suppliers or clients are prohibited if they are intended to restrict competition. In particular, agreements or contracts between competing persons in any relevant market are prohibited if they are intended to cause any of the following:

- increasing, decreasing or fixing prices with respect to the sale or purchase of products;
- dividing product markets or allocating them on grounds of geographic area, distribution centre, and type of customers, goods, seasons or time periods;
- coordinating with regard to proceeding or refraining from participating in tenders, auctions, negotiations and other calls for procurement; and
- restricting production, distribution or marketing operations, or limiting the distribution of services in terms of its kind or volume or applying restrictions or conditions for its availability.

Moreover, the competition law stipulates that a person holding a dominant position in a relevant market is prohibited from carrying out any of the following:

- undertaking an act that leads to the end of the manufacturing, production or distribution of a product for a certain period or periods of time;
- refraining from entering into sale or purchase transactions regarding a product with any person or totally ceasing to deal with them in a manner that results in restricting that person's freedom to access or exit the market at any time;
- undertaking an act that limits distribution of a specific product, on the basis of geographic area, distribution center, client, season or period of time, among persons with vertical relationships;
- imposing as a condition, for the conclusion of a sale or purchase contract or agreement for a product, the acceptance of obligations or products unrelated by their very nature or by commercial custom to the original transaction or agreement;
- discriminating between sellers or buyers having similar commercial positions in respect of sale or purchase prices or in the terms of the transaction;
- refusing to produce or provide a product that is circumstantially scarce when its production or provision is economically possible;

## Update and trends

In 2015, Egypt launched a feed-in tariff programme which offered fairly lucrative tariffs for private sector players interested in financing, constructing and operating renewable energy power generation facilities. Multiple foreign investors in the renewables field applied and qualified under the programme, however only three companies managed to achieve financial close under the first round (due to certain legal requirements imposed by MOEE). The second round, which offers a lower tariff, is currently ongoing, with approximately 25 developers involved with a number of international financial institutions (such as IFC and EBRD) to achieve financial close for their projects.

- dictating to persons dealing with him not to permit a competing person to have access to their utilities or services, despite this being economically viable;
- selling products below their marginal cost or average variable cost; and
- obliging a supplier not to deal with a competitor.

It is worth noting that the electricity market is clearly defined under the Electricity Law as a free competition-based market through which a qualified subscriber may enter into bilateral contracts with production companies and authorised distributors to obtain the required quantities of electricity.

## 30 Preclusion and remedy of anti-competitive practices

**What authority does the regulator (or regulators) have to preclude or remedy anti-competitive or manipulative practices?**

Upon establishing a breach of any of the above-mentioned rules, the ECA shall order the violator to readjust their position and to redress the violation forthwith or within a period of time as specified by the board. Otherwise the relevant agreement or contract that has been breached will be considered void.

The ECA's board may issue a decision to stop the prohibited practice immediately, or after the lapse of the said period of time, without readjustment of position or redress for violation.

Furthermore, the Electricity Law defines illegitimate competition as an action taken by an electricity utility stakeholder (all the entities operating in the production, transmission and operation of the electricity transmission, distribution and sale network). Each and every person who intentionally discloses, disseminates or announces any information obtained by virtue of or due to their position in a foundation operating in the field of electricity shall be subject to imprisonment of not less than three months and a fine of not less than 100,000 Egyptian pounds, or either penalty, if such action causes illegitimate competition between the stakeholders operating in the field.

## International

### 31 Acquisitions by foreign companies

**Are there any special requirements or limitations on acquisitions of interests in the electricity sector by foreign companies?**

There are no general restrictions on acquisitions by foreign companies in the electricity sector. However, restrictions do apply to foreign ownership in certain strategic areas such as the Sinai Peninsula. Such restrictions apply across sectors, ie, they are not limited to the electricity sector.

### 32 Authorisation to construct and operate interconnectors

**What authorisations are required to construct and operate interconnectors?**

Approvals from EETC as well as EgyptERA are required to construct and operate any interconnection facilities.

**33 Interconnector access and cross-border electricity supply**

What rules apply to access to interconnectors and to cross-border electricity supply, especially interconnection issues?

This is not set out explicitly in the law and we believe it is dealt with on a case-by-case basis.

**Transactions between affiliates****34 Restrictions**

What restrictions exist on transactions between electricity utilities and their affiliates?

No restrictions exist under the Electricity Law on transactions between electricity utilities and their affiliates.

**35 Enforcement and sanctions**

Who enforces the restrictions on utilities dealing with affiliates and what are the sanctions for non-compliance?

Not applicable – see question 34.

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