

NEW LEGISLATION IN THE TURKISH ELECTRICITY MARKET

The System Connection and Utilisation Regulation was published on 28 January 2014. It does not introduce material changes but rather consolidates the relevant provisions that were previously spread between different pieces of legislation. This briefing note provides a summary of the position under the Regulation.

Subject

The Regulation governs the principles and procedures applicable to the connection of real and legal persons to transmission or distribution systems and utilisation by them of these systems, as well as interconnection lines. The Regulation also includes provisions with respect to direct lines to be used for transmission of electricity from the generation facility of a licence holder to its customers and/or its subsidiaries, or for export of electricity from the generation facilities located close to the relevant borders.

The scope of the Regulation, however, does not extend to connection to and utilisation of the systems by generation companies operating without a license, or by the members of the organised industrial zones subject to the Regulation on Electricity Market Activities of Organised Industrial Zones.

System Connection and Utilisation

The existing position is underlined in the Regulation: the state owned transmission company (*TEİAŞ*) and distribution companies shall not discriminate amongst equal applicants. In addition, the right of eligible customers to choose their supplier should not be interfered with.

Other than certain grounds listed in the Regulation, connection to and utilisation of transmission and distribution systems cannot be rejected and any such rejection needs to be justified. The Electricity Market Regulatory Authority (*EMRA*) is authorised to settle any related dispute.

Key issues

- The principles and procedures for connection to and utilisation of electricity transmission and distribution systems are consolidated under the Regulation.
- Key principles for a liberal electricity market are reinforced: no discrimination amongst equal parties and absolute right of eligible customers to choose their suppliers.

Regional Generation Facility Capacities to be Announced

TEİAŞ and each distribution company shall announce by 1 April each year the regional generation facility capacities that can connect to the transmission and distribution systems for the next 5 and 10 years.

Following a preliminary licence application for a generation facility, EMRA requests the opinion of TEİAŞ and/or the relevant distribution company for the feasibility of the connection to and utilisation of the relevant system by such generation facility. TEİAŞ and/or the relevant distribution company then evaluate the feasibility and send its opinion to EMRA within 45 days.

Priorities in Connection

Priority amongst the connection applicants to the transmission system from the same connection point is as follows:

- distribution company
- organised industrial zone distribution license holder
- generation facilities based on

renewable energy resources

- generation facilities based on domestic natural resources

Priority for connection to the distribution system are determined as follows:

- generation facilities based on renewable energy resources
- generation facilities based on domestic natural resources

Standard Agreements

The application for signing system connection and utilisation agreements should be made during the preliminary license period (formerly the pre-construction period). Failing this, a generation license will not be issued. These agreements will contain general and specific provisions. General provisions cannot be changed without the consent of EMRA. However, subject to the consent of EMRA, different forms of system utilisation agreements can be signed between distribution companies and authorised supply companies (supply companies established as a result of the partial spin-off of distribution companies in order to comply with the unbundling requirement).

EMRA's decision on disputes arising from system connection and utilisation agreements is no longer binding and the parties may apply to courts authorised under those agreements to resolve any such disputes.

Financial Aspects

System utilisation and operation fees are payable based on the tariffs approved by EMRA on an annual basis. In addition, system connection fees should be paid for connection to the distribution system. If new investments are required to connect to the transmission or distribution systems and these are constructed by the relevant applicant, the amount of such investments are recoverable based on methodologies to be proposed by TEİAŞ and the distribution companies and approved by EMRA. These methodologies are required to be submitted for EMRA approval within 2 months following publication of the Regulation.

Costs in respect of changes to the connection conditions requested by a system user due to a contemplated capacity increase are only payable by such user to the extent it is in relation to the section between the connection point and utilisation location. Others are payable by TEİAŞ or the relevant distribution company. All costs in relation to changes requested by TEİAŞ or the relevant distribution company are payable by such entities.

The system users are required to provide security for their payment obligations under the relevant agreements, as well as for financial obligations undertaken by such system users in respect of new investments, if any.

Disconnecting from Systems

A user who wishes to disconnect from the transmission system by dismantling its equipment connected to the system is required to inform TEİAŞ at least 2 months prior to the contemplated disconnection date. If such user would like to re-connect from the same point within 1 year of its disconnection, it would have to pay the system utilisation and operation amounts for the period between its disconnection and re-connection.

Disconnection from the distribution system by dismantling the equipment connected to the system requires 4 months' prior notice to the relevant distribution company. The notice period for ending utilisation of the distribution system, on the other hand, only requires 2 months' prior notice. A new connection agreement is not necessary to the extent the relevant equipment is connected to the system, even if the user of the facility changes.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. If you require legal advice, or further details on any matter referred to, please speak to your usual contact at our Firm.

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