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## **ELECTRICITY MARKET LAW**

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### **CHAPTER ONE**

#### **Objective, Scope and Definitions**

##### **Objective**

**ARTICLE 1 - (1)** The objective of this Law is to establish a financially sound, stable and transparent electricity market operating in a competitive environment in accordance with private law provisions, and to ensure independent regulation and audit of this market with the objective of sufficient, high quality, uninterrupted, cost-efficient and environment-friendly electricity supply to consumers.

##### **Scope**

**ARTICLE 2 - (1)** This Law covers electricity generation, transmission, distribution, wholesale or retail sale, import and export, market operation, and the rights and obligations of all individuals and legal entities engaged in these activities.

##### **Definitions and abbreviations**

**ARTICLE 3 - (1)** The following shall apply to the implementation of this Law,:

- a) Connection agreement: Agreement consisting of general and special provisions, which is made for the connection to transmission system or distribution system by a generation company, distribution company or consumer,
- b) Minister: The Minister of Energy and Natural Resources,
- c) Ministry: The Ministry of Energy and Natural Resources,
- ç) Distribution: Conveyance of electricity through 36 kV or a lower voltage lines,
- d) Distribution system: Electricity distribution facilities and networks operated by a distribution company within the distribution zone designated to it under its license,
- e) Distribution company: Legal entity engaged in electricity distribution within a designated zone,
- f) Distribution facility: Facilities and equipment established for the purpose of electricity distribution as well as meters installed or taken over by a distribution company, situated within the area starting from the terminal post from the end point of switchyards belonging to transmission facilities, and generation and consumption facilities connected to the system at distribution voltage level, until the building entries of consumers connected to the system from low voltage level, excluding building entries and the area between meters,
- g) DSİ: General Directorate of State Hydraulic Works,
- ğ) EPIAŞ: Energy Markets Operator Company of Turkey,

h) EÜAŞ: Electricity Generation Corporation,

i) General lighting: Lighting and traffic signaling of public areas including avenues, streets, alleys, underpasses, overpasses, bridges, squares and pedestrian crossings, and parks, gardens, historical sites and archeological ruins that are publicly owned and open to the public free of charge; excluding motorways and privatized access controlled highways,

i) Assigned supply company: The supply company established within the scope of legal unbundling of distribution and retail sale activities or authorized by the Board as the supplier of last resort,

j) Bilateral agreement: Commercial agreements governed by private law provisions, executed between individuals and legal entities for the sale and purchase of electricity and/or capacity, and which are not subject to Board approval,

k) Transmission: Conveyance of electricity via lines with a voltage level higher than 36 kV,

l) Transmission surcharge: The charge that may be collected on behalf of the Authority over the transmission tariff,

m) Transmission system: Electricity transmission facilities and networks,

n) Transmission facility: Facilities from the terminal pole following the switchyard of a generation or consumption facility where the generation and consumption facilities are connected at a voltage level higher than 36 kV to the connection points of the distribution facilities including medium voltage feeders of transmission switchyards,

o) Emergency generator sets: Generator sets used only during electricity outage, for the prevention of loss of life and property,

ö) Affiliate: Save for state owned economic enterprises, a company, which directly or indirectly controls any legal entity operating within the market, solely or jointly with any other company or companies or individual or individuals; or any legal entity operating within the market, which is controlled directly or indirectly, solely or jointly with other company or companies or individual or individuals; and direct or indirect relations of those company or companies and/or the foregoing affiliations of legal entity or entities operating within the market with one another ,

p) Cogeneration: Concurrent generation of heat and electricity and/or mechanical energy at the same facility,

r) Control: Rights, which allow de facto or legal, sole or joint exercise of decisive influence on a legal entity, or a right on whole or part of a property of a legal entity established through agreements or by other means and particularly through a property right or operating right, or rights allowing decisive influence on the formation of organs or decisions of a legal entity, or rights created through agreements,

s) Board: Energy Market Regulatory Board,

ş) Authority: Energy Market Regulatory Authority,

t) License: The permit granted to legal entities in accordance with this Law to operate within the market,

u) Central settlement institution: The institution established as a central clearing house as per the Capital Markets Law no. 6362 and dated 6/12/2012, and used for the performance of financial transactions among or between the market participants regulated through relevant regulations,

ü) Existing agreements: Agreements, concession agreements and implementation agreements executed prior to the effective date of the Electricity Market Law no. 4628, dated 20/2/2001 in accordance with the provisions of and regulations in respect of the Law no. 3096, dated 4/12/1984 on Appointment of Enterprises other than the Turkish Electricity Authority for

Electricity Generation, Transmission, Distribution and Trade, the Law no. 3996, dated 8/6/1994 on Commissioning Certain Investments and Services within the Framework of Build-Operate-Transfer Model, the Law no. 4283, dated 16/7/1997 on Establishing and Operating Electricity Generation Plants and Sale of Energy through Build-Operate Model, the Law no. 4501, dated 21/1/2000 on Principles to be Implemented for Settlement of Disputes by Arbitration Arising from Concession Specifications and Agreements in connection with Public Services,

v) Micro-cogeneration facility: A cogeneration facility based on electricity with an installed capacity of 100 kilowatts or less,

y) Organized wholesale electricity markets: day-ahead, intraday market and other electricity markets which require future physical delivery organized and operated by an intermediary legal entity holding a market operation license, where electricity, capacity or retail sale and purchase transactions are carried out; markets operated by Borsa İstanbul Anonim Şirketi where standardized electricity contracts as capital market instruments, and/or derivative products based on electricity and/or capacity are traded; and electricity markets such as the balancing energy market and the ancillary services market organized and operated by the Turkish Electricity Transmission Corporation,<sup>(1)</sup>

z) Pre-license: A permit issued to legal entities, intending to engage in generation activities, for a definite term in order to obtain approvals, permits, licenses, etc. required to commence generation facility investments,

aa) Retail sale: Sale of electricity to consumers,

bb) Market: Electricity market comprising of generation, transmission, distribution, market operating, wholesale, retail sale, import and export activities, and business and transactions related to these activities,

cc) Eligible consumer: Individuals or legal entities eligible to choose their supplier due to having an electricity consumption amount higher than the threshold amount designated by the Board, or directly connected to the transmission system, or possessing the legal entity of an organized industrial zone,

çç) System control agreement: Agreements executed subject to private law provisions between Turkish Electricity Transmission Corporation or a distribution company and a legal entity subject to private law provisions being the owner or operator of a private direct line, which contain provisions ensuring the stability and operational integrity of transmission and distribution systems,

dd) System usage agreement: Agreement containing general provisions and specific terms and conditions for the relevant user as regards to the usage of the transmission system or distribution system by a generation company, a company holding a supplier license or a consumer,

ee) Supply of last resort: Electricity supply to consumers that although qualifying as eligible consumers, cannot procure electricity from a supplier other than a supply license holder company authorized as the supplier of last resort,

ff) Tariff: Arrangements covering prices, terms and conditions in relation to transmission, distribution and sale of electricity and/or capacity, and related services,

gg) Supply: Wholesale or retail sale of electricity and/or capacity,

ğğ) Supplier: Generation companies supplying electricity and/or capacity, and companies holding a supply license,

hh) Supplier company: Legal entity engaged in activities of wholesale and/or retail sale, import, export and trade of electricity and/or capacity,

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<sup>1</sup> Inserted pursuant to Article 14 of the Law No. 7162, dated 18 January 2019.

- ii) TEDAŞ: Turkish Electricity Distribution Corporation,  
ii) TEİAŞ: Turkish Electricity Transmission Corporation,  
jj) Facility: Facility, network or equipment through which activities of electricity generation, transmission or distribution are being carried out or are made ready for said activities to be carried out,  
kk) TETAŞ: Turkish Electricity Trade and Contracting Corporation,  
ll) Wholesale: Sale of electricity and/or capacity for resale,  
mm) Consumer: One that purchases electricity for its own use,  
nn)<sup>1</sup> Derivative markets: Markets where electricity and/or capacity is traded as of today, in anticipation of a future cash settlement,  
oo) International interconnection: Interconnection based on operating the national electricity system with the electricity systems of other countries by implementing either synchronous parallel, asynchronous parallel, unit routing, or isolated zones methods,  
öö) Generation: Transformation of energy resources into electricity at electricity generation facilities,  
pp) Generation company: A legal entity subject to private law provisions that is engaged in electricity generation at a generation facility or facilities owned, leased, or acquired through financial lease or whose operating rights has been transferred to it, and the sale of the electricity it generates,  
rr) Generation facility: Facilities where electricity is generated,  
ss) Ancillary services: Services provided by the relevant legal entities connected to a transmission system or distribution system for the purpose of reliable operation of the transmission or distribution system and electricity supply complying with the required quality conditions as set out in detail under the relevant regulations,  
şş)<sup>2</sup> Technical and non-technical loss: Technical loss and /or loss not based on a technical reason such as illegal usage, which creates the difference between the energy feed in to the distribution system and the energy amount accrued bto the consumers within the distribution system that has an impact on the cost.  
tt)<sup>3</sup> Distribution network: The distribution facility, excluding those connection lines installed to connect the interior installations of the consumers and switchyards of the generators to the distribution system.

## **CHAPTER TWO**

### **Electricity Market Activities and Licenses**

#### **Electricity market activities**

**ARTICLE 4-** (1) The activities that can be carried out in the market, provided that a license is obtained in accordance with the provisions of this Law, are as follows:

- a) Generation
- b) Transmission
- c) Distribution
- ç) Wholesale

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<sup>1</sup> Inserted pursuant to Article 14 of the Law No. 7162, dated 18 January 2019.

<sup>2</sup> Inserted pursuant to Article 15 of the Law No. 6719, dated 04 June 2016.

<sup>3</sup> Amended pursuant to Article 31 of the Law No. 7257, dated 25 November 2020.

- d) Retail sale
- e) Market operating
- f) Import
- g) Export

(2) The principles and procedures required to be complied with by legal entities operating in the market shall be regulated by a regulation.

(3) Legal entities, which are subject to private law provisions, and will operate in the market shall be incorporated as either a joint stock company or a limited liability partnership in accordance with the provisions of the applicable legislation, and the shares of these joint stock companies other than those traded on a stock exchange in accordance with the capital market legislation shall be registered shares. The matters required to be incorporated under the articles of association of these companies shall be regulated by a regulation.

### **License principles**

**ARTICLE 5-** (1) License is a permit granted to legal entities to perform the market activities specified in the license in accordance with the provisions of this Law. Except for the provisions in relation to the markets set out in the tenth paragraph of Article 11, the following matters regarding licenses shall be regulated by a regulation issued by the Authority:

a) Application and assessment principles and procedures, and principles and procedures in relation to the granting, amendment, expiry, revocation, terms, extension of terms, and renewal of licenses and temporary suspension of rights and obligations within the scope of licenses;

b) License fees to be designated on the basis of activity type and nature of business

c) Provisions regarding the rights, liabilities, duties, capital adequacy requirements, and requirements to employ qualified personnel applicable to license holders within the scope of their licenses, and the principles and procedures on the assignment of rights of the license holders whose tariffs are subject to regulation

(2) The principles applicable to the licenses to be granted under this Law, and that shall be complied with by the license holders are as follows:

a) Excluding the exceptions set out under this Law, legal entities to be engaged in market activities must, prior to commencement of their operation, obtain a license for each activity and, in case the activities are to be conducted at multiple facilities, for each facility.

b) Legal entities whose tariffs are subject to regulation, shall keep separate accounts and records for each activity they perform that is subject to regulation, and for each zone assigned under its license for the relevant activity.

c) Licenses shall be granted for a maximum period of forty-nine years. The minimum period applicable for generation, transmission and distribution licenses shall be ten years.

ç) Legal entities shall pay to the Authority the fees in respect of grant of license, license renewal, license amendment, issuance of license copy, and annual license fees designated by the Board.

d) Legal entities holding a license shall keep their facilities, legal books and records ready for inspection by the Authority, submit those for inspection when so requested by the Authority, and timely, accurately and completely provide any kind of information and documentation that the Authority may request in the course of carrying out its activities.

e) In addition to obtaining a license, legal entities shall fulfill the requirements designated for their field of activity as set forth under the legislation.

f) Generation facilities based on the same type of renewable energy resource installed on multiple structures or extensions, may be processed under a single generation license, provided that these facilities are connected to the system from the same point. The procedures and principles regarding implementation shall be designated by the Authority.

(3) The following procedures of legal entities operating in the market shall be subject to the permission of the Board. Principles and procedures with respect to acquiring the Board's permission shall be regulated by a regulation issued by the Authority.

a)<sup>1</sup> For legal entities whose tariffs are subject to regulation; any change in their shareholding by a percentage of five percent or higher for public companies, ten percent or higher for others, and any kind of transaction that will result in a change of control

b)<sup>2</sup>

c) Works and transactions that will result in the change of ownership of or operating right over the facilities

(4) For legal entities holding a license, whose tariffs are subject to regulation, the matters set out below shall be regulated by a regulation issued by the Authority:

a) The provisions designating individuals or legal entities which will be provided with services within the scope of a license, and the types of activities to be conducted

b) The provisions imposing that a distribution or transmission license holder shall enable individuals and legal entities to access or make use of the system without making any discrimination among equals

c) Designating pricing principles set out under this Law, designating pricing principles to be applied to electricity sales within the scope of supply of last resort and/or to captive consumers by taking into account market requirements, and the implementation of the formulae concerning other adjustments, that may be necessary on these prices including inflation and provisions regarding the audit thereof

ç) Provisions which will procure that the license holder provides the Authority with complete and accurate information, and for the sales to be made to the consumers, purchases the electricity or capacity as a prudent merchant,

d) Provisions with respect to rules on charging service costs, and principles as to imposing measures to minimize technical and non-technical losses

e) Provisions with respect to the license holder's obligation to comply with all instructions of the Authority

f) Provisions with respect to activities that may be performed within the scope of the license without being subject to Board permission

g) Provisions ensuring that the services are provided in accordance with technical requirements

(5) Legal entities license applications of which are refused, shall be informed of the reason of refusal clearly and completely.

(6) A license shall expire automatically at the end of its term of validity, and upon resolution of the Board in cases where the license holder is declared bankrupt with a final decision, it is requested by the license holder, or the conditions of license may no longer be met.

(7) A legal entity applying for a generation license shall, after meeting the pre-license requirements, be required to furnish a letter of guarantee up to ten percent of the amount of

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<sup>1</sup> Amended pursuant to Article 32 of the Law No. 7257, dated 25 November 2020.

<sup>2</sup> Repealed pursuant to Article 32 of the Law No. 7257, dated 25 November 2020.

investment depending on the nature and size of the generation facility desired to be established, to be forfeited if and where the relevant legal entity fails to establish the generation facility within the construction period specified in its license. Except for events of force majeure and for just causes not attributable to the license holders, in cases where the legal entity fails to establish the generation facility within the construction period specified in the license or where it is certain that the generation facility cannot be completed within the remaining period, the license shall be revoked and the letter of guarantee shall be forfeited. The principles and procedures regarding the receipt, nature and extension of guarantees shall be prescribed under a regulation.

(8) Legal entities whose licenses are revoked, the shareholders of such legal entity holding ten percent or more of its shares, and the chairman and members of the board of directors, including those who left office within the one year prior to the revocation of such license cannot obtain, or apply for, a license, nor directly or indirectly hold shares in legal entities which has applied for a license, or take office in the boards of directors thereof for a period of three years following the revocation.

(9) Distribution licenses may be granted if and where the applicant fulfills the obligations provided for under this Law and documents the right to operate the relevant distribution system.

(10) Notices, reports and other documentation required from legal entities holding a license shall be submitted to the Authority in accordance with the principles and procedures prescribed under regulations.

(11) The Authority shall adopt required measures to protect consumers, and to avoid the interruption of market activities, in cases where licenses are terminated or revoked.

(12)<sup>1</sup>

(13)<sup>2</sup>

(14)<sup>3</sup> Energy transmission facilities required for generation facilities to be established in renewable energy resource zones shall be built by TEİAŞ in accordance with the commissioning program of electricity generation units.

### **Pre-license principles**

**ARTICLE 6 -** (1) A legal entity applying for a generation license shall first be provided with a fixed-term pre-license to enable it to obtain the permits, approvals, licenses or other similar certification as required by the legislation to commence the generation facility investment; and to acquire the ownership or usage right established over the site on which the generation facility will be constructed. The following matters regarding pre-licenses shall be prescribed under a regulation to be issued by the Authority:

a) Principles and procedures regarding application, evaluation and letter of guarantee as well as the principles and procedures applicable to the grant, amendment, expiry, termination, revocation, term and extension of the term of pre-licenses

b) The conditions and consequences of revocation or expiry of a pre-license

c) Procedures and principles regarding the rights and obligations of pre-license holder legal entities arising out of their pre-licenses, and capital adequacy requirements thereof

(2) Legal entities who, during the term of their pre-licenses, fail to obtain the required permits, approvals, licenses or other similar certificates; who fail to prove that they obtained the ownership of or acquired a right of use regarding the site on which the generation facility is to be

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<sup>1</sup> Repealed pursuant to Article 32 of the Law No. 7257, dated 25 November 2020.

<sup>2</sup> Repealed pursuant to Article 32 of the Law No. 7257, dated 25 November 2020.

<sup>3</sup> Inserted pursuant to Article 16 of the Law No. 6719, dated 04 June 2016.

established; or who fail to fulfill the obligations specified by the Authority shall not be granted a license.

(3)<sup>1</sup> Until a license is obtained, save for the exceptions designated by the Board's regulation, pre-license will be canceled, if the shareholding structure of the pre-license holder legal entity changes directly or indirectly, its shares are transferred, or transactions and operations which would result in transfer of its shares are carried out, or if the obligations designated by the Authority are not fulfilled.

(4) The principles which shall govern the pre-licenses to be granted by the Board pursuant to this Law, and the principles which license holders must comply with are as follows:

a) Excluding the exceptions provided for under this Law, legal entities that will be engaged with generation activities at multiple facilities must obtain pre-licenses for each facility.

b) Legal entities must pay to the Authority the pre-license grant, issuance of copy and other fees as specified by the Authority.

c) Legal entities holding a pre-license must provide the Authority with any information and document the Authority may need to conduct its activities.

(5) Except for events of force majeure, the term of a pre-license cannot exceed twenty-four months. The Board may, depending on the type of resource and installed capacity, extend this term by half.

(6) If a pre-license is revoked or expired for a reason that is not attributable to the legal entity holding the license, the guarantee submitted by such legal entity shall be returned.

(7) A pre-license shall terminate at the end of its term, if no time extension is granted, and automatically at the request of the pre-license holder legal entity or upon its bankruptcy.

(8) Legal entities applying for pre-license shall be required to furnish a letter of guarantee of such amount as will be prescribed under a regulation, depending on the nature and size of the intended generation facility, to be forfeited if and where the relevant legal entity fails to fulfill the obligations it is required to fulfill during the term of its pre-license.

(9) If separate license applications are submitted for the same location that the generation facility will be constructed, to conduct petroleum or natural gas market activities, the license application to be given priority shall be resolved by the Board, in consultation with the Ministry.

(10)<sup>2</sup> The construction permit to be obtained for nuclear energy generation facilities and permits, approvals, licenses and similar documents related to construction arising from other legislation and documents indicating that the ownership of the area where the generation facility will be constructed is obtained or a usage right is established shall be submitted to the Authority, within the period designated by the Board, following the issuance of the generation license. In the event that the documents requested within the period determined by the Board are not submitted to the Authority except for events of force majeure or just causes not attributable to the licensee, the generation license will be revoked. In these generation facilities construction of structures that are not directly related to the generation facility can commence before the generation license is obtained, provided that obligations arising from other legislation are fulfilled.

### **Generation activity**

**ARTICLE 7 -** (1) Generation activities may be carried out by public or private generation companies and organized industrial zone legal entities, within the scope of their licenses.

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<sup>1</sup> Amended pursuant to Article 17 of the Law No. 6719, dated 04 June 2016.

<sup>2</sup> Inserted pursuant to Article 17 of the Law No. 6719, dated 04 June 2016.



(2) Generation companies may carry out the following activities within the scope of their licenses:

a) Sale of electricity or capacity to supplier companies, eligible consumers and to persons for whom it established a private direct line

b) Trading of electricity or capacity

c) Purchase of electricity or capacity to fulfill its supply undertaking, provided that it does not exceed the ratio designated by the Board in respect of the annual electricity generation amount annotated to its license, within a calendar year

(3) Provided that the electricity generated at facilities of generation license holder legal entities are consumed by them to meet the needs of the consumption facilities they own, rent, or acquire by way of financial lease or transfer of operation rights, it shall not be considered as a sale to end consumers. Electricity purchased for use at the said consumption facilities shall not be taken into consideration in the calculation of the ratio referred to in sub-paragraph (c) of the second paragraph.

(4) Pre-license applications made for the establishment of electricity generation facilities based on wind or solar energy shall be evaluated in accordance with the following principles:

a) Where an application is submitted by the owner of the site where the generation facility is to be established, other applications made for the same site shall not be taken into consideration.

b)<sup>1</sup> It is required for the applications, to have measurement data collected in accordance with the standards for a certain period of time within the last eight years, either on the site where the facility is to be established and/or representing the site. The designation of the site, measurements and evaluation, collection and security of data, and their certification shall be regulated by a regulation to be proposed by the Ministry and issued by the Authority. No measurement data is required for generation facilities to be established on renewable energy resource zones designated within the scope of Article 4 of Law No. 5346

c) The applications, for which an affirmative connection opinion is given by TEİAŞ or the relevant distribution company by taking into account the effects on the grid of the technologies to be employed, shall be evaluated.

ç)<sup>2</sup> During the evaluation, in the event that more than one application is made to be connected to the same connection point and/or to the same connection area, TEİAŞ holds a competition on the basis of the lowest offer price over the prices included in Schedule (I) attached to the Law No.5346, in order to designate the ones that will be connected to the system up to the declared capacity, within the scope of the Law No.5346, to be valid for the periods when they can benefit from the YEK Support Mechanism and without prejudice to the rights specified in Schedule (II) attached to the same Law. The principles to be applied in case of equal offers being submitted in the competition and the procedures and principles regarding the competition are regulated by a regulation proposed by TEİAŞ and issued by the Authority. The procedures and principles regarding the technical evaluation of wind and solar energy license applications are regulated by a regulation issued by the Ministry.

(5) The total electricity generation amount that an individual or a private legal entity can generate through generation companies it controls cannot exceed twenty percent of Turkey's total electricity generation amount as published for the preceding year.

(6) Legal entities generating electricity based on renewable energy resources may obtain from the Ministry a Certificate of Electricity Generation from Renewable Resources confirming

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<sup>1</sup> Amended pursuant to Article 43 of the Law No. 7164, dated 14 February 2019.

<sup>2</sup> Amended pursuant to Article 18 of the Law No. 6719, dated 04 June 2016.

that the resource used for electricity they generate is renewable. The principles and procedures regarding the grant of the said certificate shall be prescribed under a regulation to be issued by the Ministry.

(7)<sup>1</sup> Capacity increase, modernization, renewal investments and modifications are permitted if the licenses obtained for the purpose of establishing a generation facility based on renewable energy resources and/or the areas specified in the licenses for the facilities within the scope of these licenses are not breached and the connection opinion received from TEİAŞ and/or the relevant distribution company is positive.

(8)<sup>2</sup> The procedures and principles regarding the issuance, amendment, termination, cancellation, term, extension, renewal of pre-licenses and licenses of legal entities that will engage in electricity generation facilities utilizing multiple resources and the market activities of these legal entities shall be regulated by a regulation issued by the Authority.

### **Transmission activity**

**ARTICLE 8** - (1) Electricity transmission activity can be exclusively carried out by TEİAŞ under the scope of its license. TEİAŞ cannot be engaged in activities other than the activities prescribed under this Law. The conduct of off-market activities which may result in an increase of productivity if conducted in conjunction with transmission activities shall be subject to authorization by the Authority. The purchase or rental of electricity or capacity under the scope of the ancillary services market for the purpose of compensating transmission system technical and nontechnical losses, and the sale of surplus energy resulting from such an agreement for purposes of compensating transmission system technical and non-technical losses shall be an exception of this provision.

(2) Duties and obligations of TEİAŞ shall be as follows:

a) To plan transmission investments for transmission facilities envisaged to be established, to establish new transmission facilities and to operate the transmission system in line with the competition environment for electricity generation and supply, and where necessary, to make investments for substitution or capacity increase in the transmission system.

b) To prepare tariff proposals in relation to the activities conducted within the scope of this Law, in accordance with the principles and standards prescribed by the Authority and to submit the same for the approval of the Authority.

c) To supervise the implementation of, and compliance with, the regulations on grid, balancing, settlement and ancillary services, to perform required examinations to that end, furnish a report to the Authority in respect of results and request adoption of the required measures.

ç) To identify required ancillary services and to provide such services in accordance with the provisions of the relevant regulation in order to perform load distribution and frequency control, to operate ancillary services market and balancing power market under its market operating license, to monitor real-time system reliability, and to secure system reliability to ensure that electricity is provided according to prescribed quality conditions.

d)<sup>3</sup> To monitor the system usage violations regulated under the system connection and usage agreements regarding the operation of the transmission system under normal operating conditions and the situations that pose a risk to operational safety and integrity, to apply the penalty clauses

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<sup>1</sup> Amended pursuant to Article 43 of the Law No. 7164, dated 14 February 2019.

<sup>2</sup> Inserted pursuant to Article 43 of the Law No. 7164, dated 14 February 2019.

<sup>3</sup> Inserted pursuant to Article 33 of the Law No. 7257, dated 25 November 2020.

and other sanctions set out in the system usage agreement to legal entities found to have committed a violation.

e) To make substitution and capacity increase in the transmission system.

f) To facilitate international interconnection in line with the resolution of the Ministry, to provide transmission and connection services to all system users without discrimination among equal parties, including eligible and captive consumers connected, or to be connected to, the transmission system, in accordance with the provisions of the legislation on network operation.

(3) TEİAŞ's ownership and operating borderline starts at the point of connection to the transmission system. Where the connection of a generation or consumption facility to the transmission system is made through a switchyard of another generation or consumption facility, the right of use, operation and maintenance of the feeder connected shall rest with TEİAŞ. However, TEİAŞ may have the relevant generators or consumers perform the operation and maintenance of such equipment against the price thereof.

(4) TEİAŞ may ensure the installation and operation of the portion of international interconnection line outside of the national boundaries and/or establish an international company for this purpose or become a partner to existing international companies and may participate in organizations in relation to the operation of regional markets through consultation with the Ministry.

(5) <sup>1</sup>Where it is necessary to install a new transmission facility for the purposes of connecting generation and consumption facilities to the transmission system, and to install new transmission lines for connecting this new facility to the system, the investments in question may be jointly made or financed by the legal entity or entities requesting connection to such facility if TEİAŞ is unable to provide sufficient financing or if it fails to make the investment planning on time. The amount of investment so made shall be refunded by offsetting this amount from the transmission system usage fee within the framework of the facility agreement and system connection and usage agreements entered into by and between the relevant legal entity or entities and TEİAŞ. Payback period shall be a maximum of five years for generation and consumption facilities. The principles and procedures regarding this matter shall be set forth under a regulation to be issued by the Authority.

(6) TEİAŞ shall collect data with respect to electrical system operation in accordance with the principles and procedures set out by the Board, and report and publish this data in accordance with the provisions of the Turkish Statistics Law no. 5429 dated 10/11/2005.

(7) TEİAŞ shall install and operate any kind of communication and information systems including the wireless system needed for the operation of the transmission system. It may also enable third parties to use a certain portion of the fiber optic cable infrastructure in a manner not interrupting its own activities, in line with the opinion of the Authority, and within the framework of the relevant legislation.

(8) A direct line separate from the transmission network may be established between a generation facility of a generation licensee legal entity performing generation activities and its customers and/or affiliates and/or eligible consumers; provided it is in compliance with the standards applicable to the national transmission system and a system control agreement is executed by and between TEİAŞ and the legal entity engaged in generation activities.

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<sup>1</sup> Amended pursuant to Article 33 of the Law No. 7257, dated 25 November 2020

### **Distribution activity**

**ARTICLE 9** – (1) Distribution activities shall be conducted under a license by the distribution company in the region specified in its license. The distribution company shall be responsible for providing the services of reading, maintenance, and operation of meters at the region specified in its license. Legal entities conducting market activities cannot become direct shareholders of a distribution company, and distribution companies cannot directly become shareholders to legal entities conducting market activities. A distribution company cannot engage in activities other than distribution activities. The principles and procedures in relation to the conduct of any off-market activities that increase productivity when conducted alongside distribution activities shall be set forth under a regulation to be issued by the Authority. The purchase of electricity for the purposes of general lighting, compensating technical and non-technical losses of the distribution system and the sale of the surplus energy resulting from an agreement for the purposes of compensating for the technical and non-technical losses of the system shall constitute exemptions to this provision.

(2) Distribution company shall be responsible for operating the distribution system in the region specified in its license according to the competitive environment in electricity generation and sales, renewing these facilities, making capacity replacement and expansion investments and providing services to users who are or shall be connected to the distribution system in accordance with the provisions of the relevant legislation, without discrimination among equal parties.

(3) Distribution company shall be responsible for providing ancillary services in line with the provisions of the relevant regulation.

(4) Distribution company shall be tasked with the preparation of the demand estimations for the regions specified in its distribution license and their notification to TEİAŞ. The Board shall approve these demand estimations and the estimations shall be published by TEİAŞ.

(5) The duty to prepare investment plans in line with the demand estimations approved by the Board and to submit them to the Board for approval, to prepare the projects of distribution facilities included in the investment program pursuant to the approved investment plan and to make the necessary improvement and capacity expansion investments and/or construct new distribution facilities shall belong to the distribution company operating the relevant distribution system.

(6) The investments made for the purposes of improvement, reinforcement and expansion of the electricity distribution systems following their privatization under the provisions of the Law on the Privatization Practices no. 4046 dated 24/11/1994 shall be owned by the public. The authority to approve and amend any kind of operation pertaining to the privatized electricity distribution facilities and assets and investment planning and implementation shall rest with the Board. It is essential that investments made ensure that distribution services are provided in the manner prescribed under this Law. The Authority shall direct, monitor and inspect the distribution activities. If investments approved by the Board are not made in the specified time and quality, the provisions of Article 16 shall apply.

(7) The meters installed for the electricity measurements of the distribution system users shall be owned by the distribution company. The meters owned by the existing users as of the effective date of this Law shall be purchased from the users at a nominal fee in exchange for operating and maintenance services. The principles and procedures regarding implementation shall be set forth in a regulation to be issued by the Authority.

(8) Where the connection of a generation or consumption facility to the distribution system is made through the switchyard of another generation or consumption facility, or where it is made in the form of a feed in-feed out to a distribution line, the switchyard jointly used or subjected to

feed in-feed out or the switchyard of a generation or consumption facility connected to two separate facilities through two separate lines shall become part of the distribution system. However, the operation and maintenance of the distribution facilities under this paragraph may be procured to be made by the owners of the relevant generation or consumption facilities. The principles and procedures regarding implementation shall be set forth through a regulation issued by the Authority.

(9) The installation, operation and maintenance of the consumer meters connected through the distribution voltage level and the acquisition program of the existing meters shall be performed by the distribution company. The principles and procedures regarding implementation shall be set forth under a regulation to be issued by the Authority.

(10) A direct line outside the distribution network may be installed between the generation facility of a generation license holder legal entity which conducts generation activities in compliance with the standards applicable to the national distribution system, and its customers or affiliates or eligible consumers. The installation of such direct line on property possessed by the parties installing it shall only be possible subject to a system control agreement executed between the distribution company and the generation company. Installation of a private direct line shall not hinder eligible consumers from selecting their suppliers. If the generation facility referred to under this paragraph is connected to the transmission system, the principles and procedures regarding the execution of a system control agreement shall be set forth under a regulation to be issued by the Authority.

(11) The distribution company shall be responsible for the general lighting, installation and operation of necessary metering systems pertaining thereto within the distribution region.

(12)<sup>1</sup>

(13) Where meeting the connection requests within the approved boundaries of a distribution region is not technically feasible and/or economical, the assignment of another distribution region meeting such connection requests shall be set forth under a regulation to be issued by the Authority.

(14)<sup>2</sup> The operation, maintenance and repair of the portion of the medium voltage level lines and facilities providing electricity to the facilities of the institutions and organizations involved in national security, spanning from the boundary of the distribution facility to the low voltage panel entrance of the distribution transformer shall be carried out by the distribution company in charge of the region, upon the request of the relevant institutions and organizations. If any investment is required for these facilities, such investments shall be made by the relevant institutions and organizations. The fees to be received for the services to be provided within this scope and the procedures and principles regarding implementation shall be set forth under a regulation to be issued by the Authority.

(15)<sup>3</sup> In the event that pre-license or license holder legal entities make applications to the Authority and request connection to the distribution system, the connection request shall be evaluated within the scope of the legislation in force with respect to the energy transmission lines established and/or to be established with the issuance of a connection opinion within the scope of the repealed provisional article 14 of the Law no. 4628. The connection agreement with TEİAŞ shall be terminated and a connection agreement with the distribution company shall be executed. The energy transmission lines and other network components established in accordance with the

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<sup>1</sup> Repealed pursuant to Article 34 of the Law No. 7257, dated 25 November 2020.

<sup>2</sup> Inserted pursuant to Article 19 of the Law No. 6719, dated 04 June 2016.

<sup>3</sup> Inserted pursuant to Article 34 of the Law No. 7257, dated 25 November 2020

connection agreement executed with TEİAŞ shall be purchased by the relevant distribution company or TEİAŞ at a nominal fee in exchange for operation and maintenance services.

### **Wholesale and retail sale activities**

**ARTICLE 10** - (1) Wholesale and retail sale activities shall be carried out by generation companies and public and private sector supply companies holding a supply license, in accordance with this Law and regulations issued pursuant to this Law.

(2) Supply companies may engage in wholesale or retail sale to eligible consumers, without being subject to a regional restriction.

(3) Supply companies may perform electricity import and export activities to and from countries meeting the conditions for international interconnection with the permission of the Board in line with the positive opinion of the Ministry. The principles and procedures regarding implementation shall be set forth under a regulation to be issued by the Authority.

(4) Retail sale activities conducted by a distribution company shall be fulfilled by the assigned supply company. The assigned supply company shall sell electricity to captive consumers at the relevant region over the retail sale tariffs approved by the Board.

(5) The assigned supply company shall be responsible for supplying electricity to consumers who cannot obtain electricity from another supplier despite being eligible consumers, in its capacity as the supplier of last resort. The region where this company acts as the supplier of last resort shall be the relevant distribution region and this shall be annotated to the supply license. The tariffs applicable to electricity supplied as the supplier of last resort shall be designated by the Board. If the license of the supplier company designated as the supplier of last resort expires or is revoked, the supplier company responsible as the supplier of last resort for the relevant region shall be authorized by the Board. The principles and procedures regarding the designation of suppliers of last resort, tariffs applicable to supply of last resort, term of supply, limitations and conditions as well as the supplier of last resort practices shall be set forth under a regulation to be issued by the Authority.

(6) The total amount of electricity purchase made by supply license holder private sector legal entities from generation or import companies cannot exceed twenty percent of the national total electricity consumption of the previous year. Additionally, the total electricity sale amount of the private sector legal entities in question to end consumers may not exceed twenty percent of the national total electricity consumption of the previous year.

(7) If it is designated that the assigned supply company has taken actions or formed relationships that result in the restriction or prevention of competition in the market, the relevant supplier company shall be obliged to act in compliance with the measures to be set forth by the Board. The Board shall adopt measures including reorganization of the management of the supplier company or restriction or termination of its ownership or control relationship with the distribution company subject to a specified divestment program.

### **Market operation activity and incorporation of EPIAŞ**

**ARTICLE 11** – (1) Market operation activity is the operation of the organized wholesale electricity markets and financial settlement of transactions carried out in these markets as well as other financial transactions with respect to the aforementioned activities.

(2) A joint stock company named Enerji Piyasaları İşletme Anonim Şirketi (Energy Markets Operator Company of Turkey) shall be incorporated subject to this Law, the Turkish Commercial Code no. 6102 dated 13/1/2011 and private law provisions, save for its provisions regarding

incorporation and registration. EPİAŞ shall commence its activities upon registration with the trade registry and announcement of its articles of association which shall be prepared by the Authority within six months as of the effective date of this Law in compliance with the Law no. 6102.

(3) The organizational structure and the operating principles of EPİAŞ shall be set forth in a regulation to be issued by the Authority within six months from the effective date of this Law. The Capital Markets Board shall be consulted with respect to matters concerning the markets to be operated by Borsa İstanbul Anonim Şirketi.

(4)<sup>1</sup> Total direct or indirect percentage of public institutions and publicly owned companies in the share capital of EPİAŞ may not exceed fifteen percent, excluding Borsa İstanbul Anonim Şirketi. The President is authorized to increase this rate up to twofold. Organizations who are shareholders of EPİAŞ, state owned companies and Borsa İstanbul Anonim Şirketi shall have management-level representation at EPİAŞ.

(5) EPİAŞ shall carry out the operation activities of the organized wholesale electricity markets under its market operation license, excluding the markets operated by Borsa İstanbul Anonim Şirketi and TEİAŞ within the scope of this Law. EPİAŞ shall conduct any other required financial transactions along with the financial settlement transactions of the organized wholesale electricity markets operated by TEİAŞ under its market operating license. EPİAŞ may become a party to the agreements within the scope of Article 65 of the Capital Markets Law, subject to the opinion of Authority and the Capital Markets Board.

(6) Legal entities conducting activities in the organized wholesale electricity markets operated by EPİAŞ within the scope of its license, or in the organized wholesale electricity markets where financial transactions and financial settlements in relation to market activities are managed by EPİAŞ shall be obliged to provide TEİAŞ and EPİAŞ with the information required for the performance of the financial settlement transactions. The principles and procedures governing confidentiality and public disclosure of the information provided shall be set forth under a regulation to be issued by the Authority.

(7) The rights and obligations of EPİAŞ shall be as follows:

a) To work towards establishing new markets in organized wholesale electricity markets falling under the scope its responsibility in line with the development of the market and submit said work to the Authority.

b) To become a party to international electricity markets created or to be created in the future for purpose of operating the organized wholesale electricity markets falling within its scope of responsibility, to become a shareholder to or a member of the international electricity market operators established for this purpose, if deemed appropriate by the Ministry.

c) To designate market operation tariffs under the framework of the principles and procedures set forth by the Authority, and submit them to the Authority.

(8) Other energy market activities conducted by EPİAŞ out of the scope of its market operating license, and matters regarding emission trade shall be set forth by the Authority, through consultation with the Ministry and the Capital Markets Board.

(9) The legal entities carrying out activities within the organized wholesale electricity markets, which are operated by EPİAŞ or in which the financial settlements and other financial transactions are performed by EPİAŞ, shall ensure payment of the fees prescribed by EPİAŞ to the

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<sup>1</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

central settlement institution, in exchange for the provision of services designated to be provided by the central settlement institution pursuant to the relevant regulation.

(10) Borsa İstanbul Anonim Şirketi is the operator of the markets in which standardized electricity agreements qualifying as capital market instruments and derivatives based on electricity and/or capacity are traded. The licensing in respect of such markets and the prescription of the operating principles of the markets, designation of the standards of electricity agreements qualifying as capital market instruments and of derivatives based on electricity and/or capacity traded at these markets, settlement transactions in these markets, operation tariffs, obligations of the relevant individuals and entities, principles and procedures regarding supervision and inspection shall be set forth in a regulation to be issued jointly by the Authority and the Capital Markets Board.

(11)<sup>1</sup> Documents executed in relation to the transactions performed within the organized wholesale electricity markets under this Law and by EPIAŞ and/or its affiliates in relation to other energy market transactions including natural gas and emission trade, which are included in the field of activity of EPIAŞ pursuant to the eighth paragraph of this article, shall be exempt from stamp tax.

(12) EPIAŞ shall commence market operation activities by obtaining the required market operation license from the Authority within six months following the date of its incorporation.

(13) Until EPIAŞ obtains a market operation license, the relevant markets shall be continued to be operated by TEİAŞ without a market operation license.

(14)<sup>2</sup> The procedures and principles regarding risk management in markets operated by EPIAŞ or in which the financial settlements and other financial transactions are performed by EPIAŞ, procedures and principles regarding the security deposits to be received from market participants due to central counterparty and clearing services and the procedures and principles regarding the default guarantee account to be established shall be regulated by a regulation to be issued by the Authority.

(15)<sup>3</sup> Assets in the default guarantee account created through the security deposits kept with EPIAŞ and the central settlement institution in relation to the markets operated by EPIAŞ or markets in which financial settlements and other financial transactions are carried out by EPIAŞ, cannot be used for other purposes, seized or pledged, shall not be affected by the liquidation decisions of administrative authorities, cannot be included in the bankruptcy estate, and cannot be subject to an injunctive relief.

### **Import and export activities**

**ARTICLE 12** – (1) Export of electricity and/or capacity to countries meeting the international interconnection conditions may be made by companies holding supply licenses and generation companies, subject to the approval of the Board in accordance with this Law and the secondary legislation, and subject to the positive opinion of the Ministry.

(2) Import of electricity and/or capacity from countries meeting the international interconnection conditions may be made by companies holding supply licenses, subject to the approval of the Board in accordance with this Law and the secondary legislation, and subject to the positive opinion of the Ministry.

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<sup>1</sup> Amended pursuant to Article 83 of the Law No. 7103, dated 21 March 2018.

<sup>2</sup> Inserted pursuant to Article 15 of the Law No. 7162, dated 18 January 2019.

<sup>3</sup> Inserted pursuant to Article 15 of the Law No. 7162, dated 18 January 2019.



(3) Legal entities wishing to export the electricity they generate at facilities established in border provinces through a private direct line without any connection to the transmission or a distribution system may be granted permission by the Board subject to the positive opinion of the Ministry, and provided that a generation license is obtained.

(4) For purposes of supplying electricity at border regions, where a technical need arises, import of electricity through the isolated region method may be temporarily allowed by the Board, subject to the positive opinion of the Ministry.

(5) The principles and procedures of import and export activities shall be set out under a regulation to be issued by the Authority.

### **Permitted activities of organized industrial zones**

**ARTICLE 13** – (1) The legal entities of organized industrial zones, established pursuant to the Organized Industrial Zones Law no. 4562 dated 12/4/2000, may carry out generation and/or distribution activities within their approved boundaries by obtaining a generation and/or distribution license from the Authority, without being subject to the requirement to incorporate a company pursuant to the provisions of the Law no. 6102, provided that they meet the conditions to be specified by the Authority through a regulation.

(2) Distribution activities within the approved boundaries of an organized industrial zone that is not issued a distribution license shall be carried out by the relevant distribution company. Such organized industrial zones may not request any distribution fees from their participants, nor prevent their participants from exercising the rights afforded to them as eligible consumers or from operating in the electricity markets.

(3) Participants of organized industrial zones that are distribution licensees that exceed the eligible consumer limit may exercise their right to select their supplier, provided that they pay a distribution fee to the organized industrial zone legal entity.

(4) Special conditions which must be satisfied by an organized industrial zone legal entity in order to obtain a generation or a distribution license, principles and procedures of obtaining a license as well as principles and procedures in relation to the provision of the electricity generated or supplied as an eligible consumer to use of participants, designation of the distribution fees, and the activities which organized industrial zone legal entity is permitted to conduct within the scope of this article shall be laid out in a regulation to be issued by the Authority.

(5) The ownership and operating rights of distribution facilities located within the approved boundaries of an organized industrial zone holding a distribution license that are transferred to TEDAŞ free of charge or at a nominal fee shall be transferred to the relevant organized industrial zone, within a period to be designated by the Board, for a price equal to the total of the financial cost of the investment amounts spent since the date of transfer.

(6) Organized industrial zone legal entity shall be deemed an eligible consumer for the purposes of meeting the electricity requirements of its participants, regardless of the amount of its consumption.

(7)<sup>1</sup> Organized industrial zones that meet the reclamation conditions designated by the reclamation commission and that have been granted legal personality by the Ministry of Science, Industry and Technology, may not apply for distribution licenses until the expiration of the transfer of operating rights agreement in their respective regions. The ownership of the distribution facilities that have been established by the organized industrial zones transformed from reclamation and have been transferred free of charge or at a nominal fee shall be transferred to the

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<sup>1</sup> Inserted pursuant to Article 87 of the Law No. 7033, dated 18 June 2017.

relevant organized industrial zone at the end of the term of the transfer of operating rights agreement, free of charge or at a nominal fee.

### **Activities not requiring licenses**

**ARTICLE 14** – (1) Activities exempt from the requirement to obtain a license or to incorporate a company are as follows:

a) Emergency generator sets and generation facilities that do not connect to the transmission or distribution systems,

b) Generation facilities based on renewable energy resources with installed capacities of maximum one megawatt,

c) Waste water treatment facilities of municipalities and generation facilities used for the disposal of sludge from wastewater treatment,

ç) Micro-generation facilities and the cogeneration facilities meeting the productivity levels designated by the Ministry, which are within the categories specified by the Board,

d) Generation facilities based on renewable energy resources using all of the energy they generate without supplying any of it to the transmission or distribution systems, and the generation and consumption of which takes place at the same metering point,

(e)<sup>1</sup> Market activities carried out within the scope of electricity storage and demand-side participation, subject to the limits and procedures and principles to be designated by the Board through consultation with the Ministry,

(f)<sup>2</sup> Generation facilities based on renewable energy resources established and operated by the General Directorate of State Hydraulic Works in order to meet the electricity needs of agricultural irrigation facilities, the electricity subscriptions of which is in the name of the General Directorate of State Hydraulic Works, provided that the installed capacity of these generation facilities is limited to the contractual power of the agricultural irrigation facility and if there are multiple facilities, the total contractual power of all of these facilities,

(g)<sup>3</sup> Generation facilities based on renewable energy resources provided that they are limited to the contractual power set out in their connection agreements,

(2) The President shall be entitled to quintuple the upper limit regarding the installed capacities of generation facilities based on renewable energy resources permitted to operate without obtaining a license, on a resource basis, based on principles of improvement of competition, technical adequacy of transmission and distribution systems, and supply security.<sup>4</sup>

(3) In the event that the surplus electricity output generated by the persons who generate electricity based on renewable energy resources which are exempt from the obligation to obtain a license are supplied to the system, this electricity shall be purchased by the supplier of last resort from the prices designated within the scope of Law on the Utilization of Renewable Energy Resources for the Purpose of Generating Electricity no. 5346, dated 10/5/2005.<sup>5</sup>

(4) The technical principles and procedures relating to the connection of these persons to the system as well as the principles and procedures in relation to sales, applications, and inspections shall be set out under a regulation to be issued by the Authority.

(5) Energy generation facilities may be established on water conveyance lines and waste water conveyance lines by legal entities over half of whose share capital is owned by a

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<sup>1</sup> Inserted pursuant to Article 84 of the Law No. 7103, dated 21 March 2018.

<sup>2</sup> Inserted pursuant to Article 56 of the Law No. 7139, dated 19 April 2019.

<sup>3</sup> Inserted pursuant to Article 35 of the Law No. 7257, dated 25 November 2020.

<sup>4</sup> Amended pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>5</sup> Amended pursuant to Article 35 of the Law No. 7257, dated 25 November 2020.

municipality, if there are technical means and if it is deemed appropriate by DSİ. If multiple municipalities have allocation rights over a water conveyance line, a hydro-electricity facility shall be established and operated in accordance with a protocol to be executed between the relevant municipalities. Arrangements and amendments relating to the water usage right agreements required to be executed with DSİ for the facilities within the scope of this paragraph shall be set forth under the Regulation on the Principles and Procedures in relation to the Execution of Water Usage Right Agreements for the Conduct of Generation Activities in the Electricity Market, within three months.

(6)<sup>1</sup> Share transfers are not permitted with respect to the generation facilities based on wind and solar energy specified under section (b) of the first paragraph from the date of application until the provisional acceptance of all generation facilities subject to the application, save for exceptions to be designated through a regulation by the Board. In the event of any share transfer, the connection agreement invitation letter of the relevant legal entity shall be revoked.

(7)<sup>2</sup> Direct and indirect shareholders of distribution and assigned supply companies, legal entities under their control, persons employed in companies directly or indirectly owned by these companies and legal entities under the control of these persons may not apply for wind and solar energy based generation activity under this provision in the distribution region of the relevant distribution company and in the distribution regions in which the relevant distribution company is a shareholder.

### **CHAPTER THREE** **Supervision and Sanctions**

#### **Supervision**

**ARTICLE 15<sup>3</sup>** - (1) Save for the provisions of the Law no. 6362 in relation to the markets operated by Borsa İstanbul Anonim Şirketi pursuant to the tenth paragraph of Article 11, the inspection and supervision of electricity market activities and persons performing unlicensed generation activities, except for the distribution companies, shall be performed by the Authority, and the supervision of the electricity distribution companies shall be performed by the Ministry. While the Ministry may carry out supervision of electricity distribution companies together with public institutions and organizations that are specialized in this subject, including the Authority, it is also authorized to do so by delegating its powers partially or as a whole to these institutions and organizations. The requests by the Ministry from specialized public institutions and organizations in relation to this subject shall be timely met. In case of delegation of powers, any expenses incurred by the appointed or collaborated institution or organization shall be funded through the budget allocated to the Ministry. The audit reports issued or resolved by the Ministry shall be notified to the Authority. Necessary sanctions and actions shall be decided by the Board, according to the outcome of an audit report.

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(3)<sup>5</sup> With respect to their supervision obligations under the scope of this Law, the Ministry and the Authority may, in accordance with the relevant legislation, purchase services from companies authorized to conduct inspections and observations and issue reports, the results of which shall not be binding upon the Ministry and the Authority, and shall not include any sanctions. The qualifications and authorization of such companies, and the rights and obligations

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<sup>1</sup> Inserted pursuant to Article 20 of the Law No. 6719, dated 04 June 2016.

<sup>2</sup> Inserted pursuant to Article 20 of the Law No. 6719, dated 04 June 2016.

<sup>3</sup> Amended pursuant to Article 36 of the Law No. 7257, dated 25 November 2020.

<sup>4</sup> Repealed pursuant to Article 144 of the Law No. 6552, dated 10 September 2014.

<sup>5</sup> Amended pursuant to Article 6 of 138 the Law No. 6552, dated 10 September 2014.

of the authorized companies and the companies to be inspected, as well as any other principles and procedures shall be set forth under regulations to be issued by the Ministry or the Authority, as applicable.

### **Sanctions and procedures for imposition of sanctions <sup>1</sup>**

**ARTICLE 16** - (1) The Board shall impose the sanctions and penalties below on legal entities operating in the market:

a) In the event of information request or site inspection by the Board, if the requested information provided is false, incomplete or misleading, or no information is provided or the opportunity for site inspection is not given, a notice requiring the provision of accurate information or site inspection opportunity within fifteen days shall be served. An administrative fine of five hundred thousand Turkish Liras shall be imposed on those persisting in their non-compliance, despite the written notice served.

b) In the event of designation of a violation of the provisions of this Law, the secondary legislation or the license, Board decisions and directives , a notice requiring that the violation be remedied within thirty days or not repeated shall be served, depending on the nature of the violation. An administrative fine of five hundred thousand Turkish Liras shall be imposed on those continuing or repeating their violation, despite the written notice served.

c) In the event of a a violation of the provisions of this Law, the secondary legislation or the license that is by nature not remediable, an administrative fine of five hundred thousand Turkish Liras shall be imposed without the need for a notice.

ç) In the event of submission to the Board of false documentation or provision of misleading information or not disclosing changes to license eligibility conditions that could impact the grant of license, during the license application process or validity period of the license, an administrative fine of eight hundred Turkish Liras shall be imposed. If the false document or misleading information or change on the license condition is not remediable, or the non-compliance is not remedied despite a written notice requiring such remedy within thirty days is served, the license shall be revoked.

d) In the event of a breach of the prohibition of affiliate relationship during the term of a license, a notice requiring the reorganization of such affiliate relationship within thirty days shall be served. An administrative fine of nine hundred thousand Turkish Liras shall be imposed on those continuing their breach, despite the written notice served.

e) In the event that certain activities out of the license scope are conducted within the market, a notice requiring cease of such out of scope or adverse activity within fifteen days shall be served. An administrative fine of one million Turkish Liras shall be imposed on those continuing their violation, despite the written notice served.

f) In the event that the conditions forming the basis of the grant of license are no longer in effect or have not been satisfied since the beginning, the respective license shall be revoked.

g) In the event that a the law has been fraudulently evaded or false statement is made in respect of the requests made or transactions conducted in connection with this Law, the respective license shall be revoked.

(2) The Board is entitled to apply different remedy periods for the aforementioned actions subject to fines, depending on the nature of the action concerned. In the event that the actions subject to fine are not remedied within the remedy periods or repeated following a fine being

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<sup>1</sup> Please refer to the table at the end of this Law in relation to the enforcement of the monetary penalties set out in this article after 1 January 2021.

imposed, the fine for each repeated offense shall double the amount of the preceding fine. The preceding fine shall not be taken into account if the actions subject to fine are not repeated within two years following the fine being imposed. In any case, the fine amount to be applied at the increased rate in respect of the same actions repeated within two years shall not exceed ten percent of the gross revenue of the legal entity in question, as reflected in its previous fiscal year's balance sheet. If the respective fine amounts reach up to the said level, the Board is entitled to revoke the license.

(3) In the event where it is designated by a Board resolution that violations of legislation by a distribution company operating in the distribution zone within the scope of its distribution license disrupt its performance of distribution activities and failure to comply with the procedures and principles set out under a regulation issued by the Authority is at an unacceptable level, or violations of legislation reduce the nature or quality of the distribution activities to an unacceptable degree, or there is persistent violation of legislation by the distribution company, or the distribution company has or is to become insolvent, the below sanctions may be imposed, separately or cumulatively:

a) Some or all members of the board of directors of the licensed legal entity shall be dismissed, and new board members shall be appointed to their positions by the Board.

b) Compensation of the monetary equivalent of services not provided as and when they must have been and the compensation for investments not made pursuant to the scope of the tariff by legal entities holding a distribution license shall be collected primarily from the revenues generated by the company from its other operations, and if not sufficient, from the dividends payable to shareholders, and finally from the assets of the shareholders holding registered shares.

c) Procedures required for the appointment of the legal entity entitled to operate the distribution system shall be carried out in accordance with the first paragraph of Article 18.

ç) A new license shall be granted to the legal entity, which documents that it is entitled to operate the relevant distribution system and fulfills the obligations stipulated under this Law.

d) The Authority shall take any necessary precautions to protect the consumers and prevent disruption of services until a distribution license is granted to another legal entity for the distribution zone where the license is terminated.

(4) In the event where it is designated by a Board resolution that violations of legislation by an assigned supply company disrupt the performance of its activities subject to regulation in accordance with the procedures and principles set out under a regulation issued by the Authority at an intolerable level, or violations of legislation reduce the nature or quality of the activities subject to regulation at an intolerable level, or violations of legislation has become assigned supply company's regular practice, or the assigned supply company has or is to become insolvent, the below sanctions may be imposed, separately or collectively:

a) Some or all members of the board of directors of the licensed legal entity shall be dismissed, and new board members shall be appointed to their positions by the Board.

b) The Authority shall take all necessary precautions to protect the consumers and prevent disruption of the services until another legal entity is appointed as the supplier of last resort for the incumbent supply company whose license is terminated.

c) A new supply license shall be granted to the legal entity appointed by the Board as the supplier of last resort.

(5) In the event where it is designated by a Board resolution that violations of legislation by an organized industrial zone holding a distribution license disrupt its performance of the distribution activities and failure to comply with the applicable procedures and principles is at an

unacceptable level, or violations of legislation reduce the nature or quality of the distribution activities to an unacceptable degree, or there is persistent violation of legislation, or the organized industrial zone has or is to become insolvent, its license shall be revoked, and the distribution activities shall be performed by the related distribution company. (6) The Authority may collaborate with other public institutions and organizations or procure services from individuals or private legal entities per the provisions of the relevant legislation regarding the works and transactions to be performed within the scope of paragraph four. The procedures and principles regarding the implementation of these provisions shall be regulated under a regulation to be issued by the Authority.

(7) Lawsuits filed against the board members appointed to the board of directors of distribution companies by the Board on the grounds of performance of their duties shall be deemed to have been filed against the Authority as being the relevant appointing authority, and the dispute shall be directed to the Authority in these legal proceedings. In the event that a court decision against the Authority is rendered as a result of the legal proceedings, and the Authority makes any payments pursuant to the final decision, said amount shall be collected from the related parties by way of recourse in proportion to their fault, provided that the court decision approving the existence of their fault is finalized. Authority personnel in charge of the performance of the work and procedures within the scope of paragraph four shall be subject to the Law No. 4483, dated 2/12/1999 on the Prosecution of Civil Servants and other Public Employees.

(8)<sup>1</sup> A cure period shall be provided to the electricity distribution companies to remedy the deficiencies in respect of unlit, missing lighting fixtures and/or poles detected within the general lighting regardless of such discrepancy being identified other than through an audit. In case it is detected that the deficiencies are not remedied within the given cure period, an administrative fine of five hundred Turkish Liras shall be imposed by the Board for each deficient pole or lighting fixture following the Ministry's notification to the Board. The cure periods to be given for remedy of deficiencies and the principles for identifying deficiencies shall be set forth under a regulation. Administrative fines to be imposed in accordance with this Law shall be paid within one month following their notification.

(9) Administrative fines stipulated under this article can by no means be reflected as a cost element to the tariffs to be prepared by the legal entities paying the relevant fine.

## **CHAPTER FOUR**

### **Tariffs, Consumer Support, Privatization, Expropriation and Security of Supply**

#### **Tariffs and Consumer Support**

**Article 17**<sup>2</sup> - (1) The tariffs to be set within the scope of this Law and proposed to be applied for the ensuing period shall be prepared by the relevant legal entity in accordance with the procedures and principles designated by the Board, in a manner to include all the costs and service charges applicable to the activity subject to tariff, and submitted to the Board for approval. The Board may request revisions in the tariff proposals, which it deems not compliant with the legislation, or if necessary, may approve such proposals by revising them ex officio. The relevant legal entities shall be obliged to apply the tariffs approved by the Board.

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<sup>1</sup> Inserted pursuant to Article 112 of the Law No. 7061, dated 28 November 2017.

<sup>2</sup> Amended pursuant to Article 21 of the Law No. 6719, dated 04 June 2016.

(2) License holder's monthly inflation adjustments on the applied annual tariffs and adjustments as regards to certain other matters set under its license shall be approved by the Board. Price formulas designated within the scope of approved tariffs may be amended in the event of occurrence of the conditions stipulated under the legislation.

(3)<sup>1</sup> Save for all costs and service charges pertaining to the activity subject to tariff, the approved tariffs shall not comprise any component which is not directly related to market activities. Transmission surcharge shall constitute an exception to this provision.

(4)<sup>2</sup> The terms and conditions of Board-approved tariffs comprising all costs and service charges related to the relevant activity shall be binding upon all the individuals and legal entities subject to these tariffs. In cases where an individual or legal entity fails to make one of the payments set out under the tariff applicable to it, the procedures and principles regarding suspension of the relevant activities shall be specified in a regulation to be issued by the Authority. The Board is authorized to set separate tariffs per characteristics of consumers for purposes of supporting certain subscriber groups and renewable energy resources. Upon request, consumers may benefit from the tariffs set for the purposes of supporting renewable energy resources. Tariffs subject to the regulation of the Board shall be reflected directly to the end users or to the licensed legal entities supplying energy to the end users.

(5) Upon grant of a license subject to tariff approval, the tariff applicable for the current year shall be examined and approved by the Board.

(6) Types of tariffs subject to Board regulation are as follows:

a)<sup>3</sup> Connection tariffs: Connection tariffs shall be comprised of prices, terms and conditions based on the principle of non-discrimination among equal parties for connection to a distribution system, which shall be included in the relevant connection agreement. Connection tariffs shall not cover network investment costs; and shall only be limited with costs incurred in relation to the connection lines installed for the connection of interior installation of the consumption facility to be connected, and connection of the switchyard of a generation facility to the distribution network. In cases where the connection line is installed by the consumer or the generator, the connection line shall be transferred to the distribution company in exchange for operation and maintenance responsibility, and the relevant consumers and generators shall not be charged any connection fee.

b) Transmission tariff: Transmission tariff, which will be prepared by TEİAŞ, shall be comprised of prices, terms and conditions applicable to all users benefiting from generated, imported or exported electricity, which is transmitted through the transmission network based on the principle of non-discrimination among equal parties. TEİAŞ's network investments and transmission surcharges shall be included in the transmission tariff.

c) Wholesale tariff: Wholesale electricity prices shall be determined freely by parties in accordance with the procedures and principles to be designated by the Authority. Wholesale tariff comprising technical and non-technical losses and electricity to be procured by distribution companies within the scope of general lighting, and for the electricity to be supplied from TETAŞ for electricity sale to consumers whose tariffs are subject to regulation, shall be designated by the Board by taking into account TETAŞ's capacity to fulfil its financial liabilities.

ç)<sup>4</sup> Distribution tariffs: Distribution tariffs to be prepared by distribution companies shall be comprised of prices, terms and conditions applicable to all users benefiting from the electricity

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<sup>1</sup> Amended pursuant to Article 21 of the Law No. 6719, dated 04 June 2016.

<sup>2</sup> Amended pursuant to Article 36 of the Law No. 7226, dated 25 March 2020.

<sup>3</sup> Amended pursuant to Article 36 of the Law No. 7226, dated 25 March 2020.

<sup>4</sup> Amended pursuant to Article 21 of the Law No. 6719, dated 04 June 2016.

distributed through the distribution system based on the principle of non-discrimination among equal parties. Distribution tariffs consist of fees to cover all costs and services within the scope of the performance of the distribution activity, including distribution system investment costs, system operating cost, technical and non-technical losses cost, disconnecting-connecting service cost, meter reading cost, reactive energy cost. Target rates of technical and non-technical losses to be taken as a basis in the tariffs of the distribution companies are designated by the Board in a way to encourage reduction of these losses. Costs related to technical and non-technical losses are included in the distribution tariffs and reflected to consumers, provided that they do not exceed the target rates designated by the Board. The procedures and principles regarding the inclusion of the costs to be incurred by designating and changing the target rates for technical and non-technical losses in the tariffs and reflecting them to the consumers shall be regulated by the Board.

d)<sup>1</sup> Retail sale tariffs: Retail sale tariffs shall be comprised of prices, terms and conditions applicable to consumers not qualified as eligible consumers, without discrimination among equal parties. Retail sale tariffs applicable to consumers not qualified as eligible consumers shall be proposed by the assigned supplier company and shall be examined and approved by the Board. The license of supplier companies may include requirements as to the application of varying tariffs or price ranges based on the amount of electricity consumption. These terms shall be prescribed under a regulation to be issued by the Board. Retail tariffs shall consist of prices to cover all costs and services within the scope of retail sales activities such as the active energy costs, invoicing and customer services cost, and retail service costs.

e) Market operating tariff: Market operating tariff shall be set to meet the income level needed to continue EPIAŞ's activities and based on the principle of financial sustainability.

f)<sup>2</sup> (Supply of last resort tariff: Supply of last resort tariff shall be designated by taking into consideration the effective retail sale tariffs and market prices, and shall be set at a level that will encourage the consumers who, although being eligible consumers, do not supply electricity from a supplier other than the supply license holder company designated as the last resort supplier, to ensure their engagement in the competitive market and enable the last resort supplier to make a reasonable profit. A separate tariff exempt from the said restrictions may be created by the Board for consumers who consume electricity below a threshold amount, in consideration of social and economic conditions. Tariffs stipulated to be applied under the last resort supply obligation shall be proposed separately by the supply license holders. The supply of last resort tariff shall consist of the charges to cover all costs and services within the scope of the supply of last resort such as active energy costs, invoicing and customer service costs, retail sale service costs.

(7)<sup>3</sup> If it is necessary to provide subsidies in order to support consumers in specific regions or for specific purposes, such subsidies shall be provided without any intervention to pricing. The amount of and the procedures and principles regarding the subsidies shall be designated through a Presidential decision and the amount shall be paid out of the budget of the relevant authority.

(8) The procedures and principles regarding indemnification of damages and losses inflicted due to poor quality or outage of electricity by related parties shall be regulated by a regulation to be issued by the Authority.

(9) Infrastructure works to be carried out by legal entities holding a transmission or distribution license shall not be subject to infrastructure excavation license fee. Provision of security shall not be a condition to infrastructure works, including license applications. Unit prices

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<sup>1</sup> Amended pursuant to Article 21 of the Law No. 6719, dated 04 June 2016.

<sup>2</sup> Amended pursuant to Article 21 of the Law No. 6719, dated 04 June 2016.

<sup>3</sup> Amended pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.



for designation of costs associated with harm done to the ground resulting from infrastructure works shall not exceed the unit prices published by the Ministry of Environment and Urbanization. Public legal entities shall promptly conclude the infrastructure excavation license applications submitted by legal entities holding a transmission or distribution license.

(10)<sup>1</sup>

### **Privatization**

**ARTICLE 18** - (1) The Ministry shall provide the Privatization Administration with its recommendations and opinion regarding the privatization of TEDAŞ, EÜAŞ and their institutes, subsidiaries, affiliates, enterprises and business units and assets. Privatization procedures shall be conducted by the Privatization Administration under the framework of the provisions of the Law No. 4046.

(2) Without prejudice to the ownership rights, a transfer of operating rights agreement may be executed between TEDAŞ and electricity distribution companies incorporated to operate within the designated distribution zones, regarding the enterprises and assets located within the operation area of TEDAŞ and required for distribution activities.

(3)<sup>2</sup> Even if EÜAŞ or its institution, subsidiary, affiliate, and business units and the assets thereof are included in the privatization program, their relation with the Ministry or the authorities they report to and the legislation they are currently subject to, and the ownership of the assets thereof by the relevant authority or organization shall remain unchanged. Technical, financial, administrative and legal procedures with respect to the preparation for privatization by such organizations, procedures regarding their personnel and works and procedures relating to privatization shall be conducted under the framework of the provisions of the Law no. 4046. The power to submit proposals to the President shall rest with the Minister, in respect of any appointments to the chair and memberships of the board of directors, members of the board of liquidation and to the general management of such organizations and new joint stock corporations to be established under this scope and managements and management committees of organizations which are included in the privatization program yet are not required to be converted into joint stock corporations and to the managements at businesses and business units and of dismissals from such offices, . The President may delegate such power to the Minister. The powers of the Minister to which the Under secretariat of the Ministry of Finance reports shall be reserved, including powers for appointment, referred to in the Decree Law no. 233, dated 8/6/1984 on State Economic Enterprises, which relate to the procedures falling under the scope of this paragraph.

(4) A protocol shall be executed among EÜAŞ, TEİAŞ, the Under secretariat of the Ministry of Finance and the Privatization Administration to coincide with the privatization, sales and share transfers to be conducted pursuant to this Law; in order to designate the transferee's financial obligations arising from domestic and international loan agreements made to finance the transferred electricity generation and transmission facilities, where the Under secretariat of the Ministry of Finance is a party to or a guarantor.

(5)<sup>3</sup> In case of a request by the Ministry to privatize the assets of EÜAŞ and its subsidiaries or the shares of these subsidiaries for the purpose of establishing electricity generation facilities based on renewable energy resources or domestic coal, the privatization procedures shall be carried

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<sup>1</sup> Repealed pursuant to the Case numbered 2016/150 and Decision numbered 2017/179 dated 28 December 2017 of the Constitutional Court.

<sup>2</sup> Amended pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>3</sup> Amended pursuant to Article 22 of the Law No. 6719, dated 04 June 2016.

out by the Privatization Administration pursuant to this Law, together with the provisions of the Law numbered 4046 that do not contradict this article. Assets or shares shall not be subject to valuation for the privatization tender to be held within the scope of this paragraph. The privatization tender shall be realized by applying the negotiation method specified under the Law No. 4046 in order to designate the electricity sales price that will apply to the Electricity Sales Agreement to be signed under this article. The tender shall be awarded through the negotiation method by lowering the bid for electricity unit price below the initial sales price, and if deemed necessary by the tender commission, the tender can be concluded by reverse auction, with the participation of the bidders who are engaged in negotiations,. As a result of the privatization tender, for the transfer of assets or shares, an Electricity Sales Agreement is signed regarding the electricity sales price determined as a result of the tender, concurrently with the transfer agreement to be signed between EÜAŞ and the bidder who won the tender, concerning the sale of the electricity to be generated by the electricity generation facility, TETAŞ or EÜAŞ. Other procedures and principles, including the starting price for the tender subject to further reduction through bidding and the price update mechanism of the Electricity Sales Agreement, shall be notified by the Ministry to the Privatization Administration before the tender announcement. These procedures and principles shall be specified in the tender specifications.

### **Transactions related to Acquisition of Immovable Property**

**Article 19<sup>1</sup>** –Transactions related to acquisition of immovable properties related to generation activities in the electricity market:

a) The procedures regarding acquisition of immovable property by private law legal entities that are engaged in generation activities subject to pre-license or license, are carried out by the Authority pursuant to the Expropriation Law No. 2942, dated 4/11/1983, and the provisions of the relevant legislation. Immovable acquisition requests are evaluated by the Authority and a decision is taken by the Board, if deemed appropriate. Decisions taken in this context also serve as public interest decisions and are not subject to the approval of any other authority.

b) Ownership of and/or property rights other than ownership established on immovable properties acquired through expropriation and/or transfer shall be registered in the name of the relevant public institution or organization that owns the generation facilities, or in the absence of these, in the name of the Ministry of Finance. Where immovable properties registered in the name of the Ministry of Finance or removed from the land registry due to their nature are concerned, the public institution responsible and in charge of the administration of the Ministry of Finance's immovable properties shall establish a free easement right in favor of the private entities holding a license, limited to the validity period of the license, and/or a permission to use the same. Properties that cannot be subject to these transactions shall be leased without charge.

c) The costs related to transactions such as expropriation, transfer, establishment of easement right, usage permit, leasing and compensation arising from the project and other expenses related to these transactions shall be paid by private entities holding a pre-license or license. There shall be a provision stating that the validity of the contract will be limited to the validity period of the pre-license or license concerned, in agreements regarding the establishment of easement right, lease and use permit on immovable properties owned by the Ministry of Finance or on places under the control and disposal of the State.

ç) In the event that the pre-license holder cannot obtain a license or the pre-license or license expires or is canceled and the expropriated immovable properties are left to the use of another pre-

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<sup>1</sup> Amended pursuant to Article 38 of the Law No. 7257, dated 25 November 2020.

license or license holder by establishing a right of easement on it, leasing it and/or granting permission to use the same, expropriation fees paid by the legal entity that has paid the expropriation fee as the pre-license or license holder shall be reimbursed by the successor pre-license or license holder that is allocated the expropriated immovable properties.

(2) Transactions related to the purchase or use of immovable properties for distribution activities in the electricity market:

a) Processes regarding the acquisition of immovable property by private entities engaged in distribution activities pursuant to their licenses shall be carried out by TEDAŞ pursuant to the provisions of Law No. 2942 and the relevant legislation. Immovable procurement requests shall be evaluated by TEDAŞ and if deemed appropriate, a decision is to be made by TEDAŞ. Decisions taken in this context also serve as public interest decisions and shall not be subject to the approval of any other authority.

b) Ownership of and/or property rights other than ownership established on the immovable properties procured shall be registered in the name of TEDAŞ. The use of these immovable properties and rights, limited with the license period and distribution activity, belong to the private entity holding the relevant license.

c) In distribution facilities where a right to operate is obtained by private legal entities as of the date of privatization and where an expropriation decision has not been taken as of said date or the expropriation process has not been completed despite an expropriation decision having been taken, expropriation of the relevant immovable properties shall be completed by TEDAŞ, and these properties shall be registered in the name of TEDAŞ at the land registry, and the expropriation costs and other expenses related to these transactions shall be paid by TEDAŞ.

ç) In distribution regions where a right to operate is obtained by private entities, costs required for the acquisition of immovable properties relating to the new distribution facilities built after the privatization date and other expenses related to these processes shall be paid by the relevant licensee and collected through tariffs.

d) Costs related to the acquisition of immovables which cannot be recovered through tariffs as of the expiration date of the distribution license shall be returned to the relevant private law legal entity by TEDAŞ.

(3) In the event that the expropriated immovable property reverts to its previous owner or inheritors pursuant to Article 23 of Law No. 2942, the price to be reimbursed to the owner or inheritors shall be paid to the legal entity that has paid the expropriation fee.

(4) Immovable acquisition procedures relating to the activities of public entities that have a pre-license or license and engage in generation, transmission or distribution activities in the electricity market, are carried out by these entities pursuant to the provisions of Law No. 2942 and the relevant legislation. The ownership of immovables or property rights other than ownership shall be registered in the name of these public entities. Free easement rights are to be established, properties are to be leased free of charge or free use is to be permitted during the license period for public entities holding a pre-license or license regarding the places under the ownership of the Ministry of Finance or under the control and disposal of the State.

(5) The procedures and principles regarding the matters specified in this article shall be governed by a regulation to be issued by the Authority.

### **Supply security**

**ARTICLE 20** – (1) The Ministry shall be responsible for monitoring the supply security of electricity and adopting measures with respect to supply security. Duties and responsibilities with respect to supply security shall be as follows:

a) TEİAŞ shall be responsible for ensuring the planning, construction, operation, maintenance of system reliability and preparation of the production capacity projection and the 20-year Long Term Electricity Generation Development Plan so as to minimize transmission constraints. In order to maintain reliability of the system and to meet the regional system needs that may arise due to insufficient capacity, TEİAŞ may organize a tender to build new generation facilities or to lease the capacities of existing generation facilities through ancillary services agreements. The capacity rental price payable by TEİAŞ under the framework of tenders shall be reflected on the system operating price, and the energy price shall, depending on the intended purpose, be covered by market participants under the balancing and settlement regulation or by adding it on the system operating price under the scope of commercial ancillary services agreements. The principles and procedures regarding the tender to be organized by TEİAŞ for the purposes of capacity rental under the ancillary services agreements shall be set forth under a regulation to be issued by the Authority.

b) Assigned supply companies must, until the end of December each year, notify the Authority of their estimated peak demands for electricity, the amount of electricity they need, the contracts they entered into to supply such amount and additional energy or capacity needs for the next five years. The principles and procedures regarding the contracts to be entered into with generation companies or supply companies for the purpose of meeting the said energy and capacity needs shall be issued by the Authority under a regulation.

c) The Authority shall be responsible for monitoring the realized (actual) output of generation facilities that are granted a license, adopting the measures required to ensure commencement of operations of such facilities within the anticipated time under the framework of the relevant legislation, and for purposes of use in works of supply-demand balance to be performed by TEİAŞ, issuing a regular notice to the Ministry in respect of licensed new generation capacity amounts which will be put into operation within the next five years and which will be considered in supply calculation.

(2)<sup>1</sup> Capacity mechanisms that prioritize domestic resources shall be established in order to establish sufficient installed power capacity, including the reserve capacity required for ensuring supply security, and/or to maintain reliable installed power capacity to ensure system security. Payments to be made by TEİAŞ within the scope of these mechanisms shall be taken into account in transmission tariff calculations. The principles and procedures regarding the creation of a capacity mechanism shall be set forth under regulation to be prepared by the Authority, in consultation with the Ministry.

(3) The following procedures shall be followed for the monitoring and evaluation of supply security:

a) Electricity Demand Projection Report of Turkey covering the next twenty years shall be prepared and published by the Ministry once in every two years in consultation with the Ministry of Development, and the Authority.

b) Following the publication of the Report on Electricity Demand Projection of Turkey, TEİAŞ shall prepare a Long Term Electricity Generation Development Plan considering the demand forecast covering the next twenty years, the existing supply potential, potential supply options, fuel resources, the structure of the transmission and distribution systems and their

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<sup>1</sup> Amended pursuant to Article 75 of the Law No. 6745, dated 20 August 2016.

development plans, import and export options and source diversity policies and shall submit this report to the approval of the Ministry. This plan shall be published by the Ministry following the approval thereof.

c) TEİAŞ shall, on an annual basis, designate and present to the Ministry and the Authority the realizations according to the Long Term Electricity Generation Development Plan as well as short and medium term supply-demand balance in such a way as to cover the next five years under the framework of generation capacity projection.

ç)<sup>1</sup> The Ministry shall, until December 31 of each year, prepare and present to President a Report on Electricity Supply Security, considering the supply-demand balance, source diversity, the state of transmission and distribution systems and generation facilities in line with the results of above mentioned studies and the Electricity Market Development Report prepared by the Authority. The report shall cover assessment of electricity market development and operation, as well as findings, issues and proposed solutions in respect of supply security.

## **CHAPTER FIVE**

### **Miscellaneous Provisions**

#### **Notifications**

**ARTICLE 21** - (1) Provisions of the Notifications Law No. 7201, dated 11/2/1959, shall apply to any notices to be served by the Authority under this Law; however, notices to be served by way of announcement shall be published in the Official Gazette.

#### **Service procurement**

**ARTICLE 22** - (1) License holder legal entities may purchase services regarding the activities that are within the scope of their licenses. However, this shall not be construed as transfer of the obligations of the license holder legal entity arising out of its license. The Board shall designate which activities may be performed by way of purchasing services.

#### **Connection opinion**

**ARTICLE 23** - (1) TEİAŞ and distribution companies shall annually publish regional availability for generation facility capacity that may be connected to their system for the following five and ten years, respectively. No connection opinion shall be given to generation facilities other than the regional capacities published in the aforementioned manner. If requested by the Ministry for purposes to ensure security of supply, and requested by the Authority for the development of competition within the market, TEİAŞ and distribution companies shall increase the specified capacities and number of connection points, by taking into account system conditions.

#### **Relocation**

**ARTICLE 24** - (1) In respect of hydroelectric power plant projects to be carried out within the scope of this Law and the Law No. 5346 and investments to be made for purposes of electricity generation from domestic resources under the second paragraph of the provisional Article 4 of Law no. 4283, where the railway transport route must be changed, the relocation works shall be carried out by the administration controlling the relevant railway, by collecting the expropriation

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<sup>1</sup> Amended pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

price of the existing railway to be flooded. This provision shall include projects pertaining to water usage right agreements made prior to entry into force of this Law, which are yet to be completed.

### **Taxes and charges**

**ARTICLE 25** - (1) Documents issued with regard to the water usage right and principles of operation agreements, which were executed by DSİ following 26/06/2003, and which do not contain reimbursement of any common facility investment cost shall be exempt from stamp duty, while the transactions thereof shall be exempted from charges.

### **Rights and obligations of EÜAŞ**

**ARTICLE 26** - (1) EÜAŞ shall take over the generation facilities incorporated within DSİ, in accordance with the provisions of this Law, and shall operate generation facilities taken over from the abolished Electricity Generation and Transmission Company of Turkey, but not transferred to legal entities subject to private law. EÜAŞ may operate said facilities on its own and/or through its subsidiaries and other public generation companies, or shall decommission these facilities when necessary.

(2) EÜAŞ shall maintain the ownership over facilities and enterprises that are transferred or will be transferred to private legal entities by way of transfer of operation rights under existing contracts, and over any supplementary, substitute and maintenance investments to be made for these.

(3) EÜAŞ shall make any kind of improvement, capacity increase, renewal, substitution and maintenance investments regarding existing facilities or facilities that it will take over.

(4) Subject to the approval of the Ministry, EÜAŞ may enter into partnerships with private legal entities with respect to generation facilities to be newly constructed.

(5) The Ministry and the Authority shall be authorized and responsible to adopt any measures to ensure an effective generation composition being formed by EÜAŞ, and to prevent any financial burden that may arise from generation, taking care not to adversely impact the financial structures of other state economic enterprises operating in the energy market, and by consulting the opinions of the Ministry of Development and the Undersecretariat of the Ministry of Finance.

(6) EÜAŞ shall perform the activities referred to under second paragraph of Article 7 within the scope of generation license.

(7)<sup>1</sup> shall carry out the energy purchase and sales agreements within the scope of existing contracts entered into by TETAS, which has been dissolved. EÜAŞ may sign electricity exchange agreements, import and export agreements, and energy purchase and sales agreements within the scope of existing concession and implementation agreements.

(8)<sup>2</sup> EÜAŞ enters into and performs bilateral agreements regarding the purchase and sale of electricity and capacity within the scope of this Law and the relevant legislation, and may operate in organized wholesale electricity markets.

(9)<sup>3</sup> EÜAŞ sells electricity to assigned supply companies at the wholesale tariff for consumers whose tariffs are subject to regulation.

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<sup>1</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>2</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>3</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

(10)<sup>1</sup> For consumers whose tariffs are not subject to regulation, the price, terms and conditions regarding the sale of electricity by EÜAŞ to the assigned supply companies shall be freely determined between the parties.

(11)<sup>2</sup> Suppliers authorized by the Board as last source suppliers are obliged to purchase a certain percentage of the electricity they provide to customers in their role as supplier as last resort from EÜAŞ, such percentage to be designated by the Board on an annual basis .

(12)<sup>3</sup> Distribution companies shall purchase their energy demand pertaining to their general lighting, technical and non-technical losses from EÜAŞ.

(13)<sup>4</sup> In the event that EÜAŞ cannot meet the amount of electricity specified in the ninth, eleventh and twelfth paragraphs under the scope of its existing contracts, it shall purchase it from the companies operating domestic coal-fired power generation plants. Other procedures and principles relating to the said supply, including designation of the amount, duration and price, shall be specified by the Ministry.

(14)<sup>5</sup> The Ministry and the Authority are authorized and obligated to adopt all measures by consulting the opinion of relevant ministries and public institutions in a way that will not adversely affect the financial structures of other public economic enterprises operating in the energy market, in order to ensure that EÜAŞ fully meets its purchasing obligations and that no financial burden arises from these obligations.

## **Rights and obligations of TETAŞ**

### **ARTICLE 27 – <sup>6</sup>**

#### **Update of investment costs**

**ARTICLE 28** – (1) US Dollar denominated DSİ participation fees set out under the agreements of hydroelectric power plants operating pursuant to the built-operate-transfer model, which are in operation within the framework of their existing agreements, and whose DSİ participation fees are paid by TETAŞ through tariffs, shall be paid to DSİ at the end of each operation year in the amount determined under the relevant agreement at the foreign exchange rate of the Central Bank of the Republic of Turkey on the payment date.

(2) The construction fee to be taken as a basis in the calculation of the energy contribution share payable to DSİ pursuant to the provisions of the water usage right agreement signed regarding the existing hydroelectric power plants or for the power plants to be established under the scope of Law no. 4628, the initial estimated value of the single or multipurpose facilities, on which the tender will be based;

a) Where it includes an energy facility, the initial estimated value of such part of the facility which is constructed by DSİ,

b) Where it does not include the energy facility, the initial estimated value for the joint facility,

cannot be greater than thirty percent of the amount at the time the water usage agreement was made, updated using Wholesale Price Index/Producer Price Index, and in respect of facilities falling under the scope of sub-paragraph (b), if there is any amount of expense made for the energy

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<sup>1</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>2</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>3</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>4</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>5</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>6</sup> Repealed pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

facility by DSI, such amount shall be separately added to the energy contribution share, by updating such amount by using the Wholesale Price Index/Producer Price Index. The updating of the initial estimated value shall be based upon the value of Wholesale Price Index / Producer Price Index published in January of the year of estimation in respect of works for which a tender was organized pursuant to the State Procurement Law no. 2886, dated 8/9/1983, if a value is determined under the water usage right agreements signed, based on the Wholesale Price Index / Producer Price Indexed used in the calculation of such value, and Wholesale Price Index / Producer Price Index values of one month prior to the date on which offers were submitted for the tenders organized pursuant to the Public Procurement Law no. 4734, dated 4/1/2002. In respect of payments made or to be made for the expropriations relating to the project, the entire amount falling under the energy contribution share, the amount updated to the date on which the water use agreement is made by using the Wholesale Price Index shall be borne by the company.

### **Evaluation of applications for hydraulic resources**

**ARTICLE 29** – (1) DSI shall be authorized to designate the legal entity with which the water usage agreement will be executed for the applications made to enter into a water usage agreement for purposes of obtaining a generation license based on hydraulic resources. If multiple applications are made to DSI for the same resource, , the legal entity offering the highest rate per unit megawatt of hydroelectric resource contribution fee per annum shall be chosen for the execution of the agreement from among applicants with satisfactory feasibility studies, and notified to the Authority.

(2) Hydroelectric resource contribution fee shall be paid until the end of January each year so as to be recorded as revenue in the DSI budget.

(3) The procedures and principles regarding the implementation of this article shall be set forth in a regulation to be issued by the ministry under which DSI is organized.

### **Amended and repealed provisions**

**ARTICLE 30** – (1) The heading of the Law No. 4628 has been amended as "Law on the Organization and Duties of the Energy Market Regulatory Authority".

(2) Article 1 of the Law No. 4628 including its heading has been amended as follows.

#### **“Purpose and definitions**

**ARTICLE 1** - The purpose of this Law is to regulate the organization, duties, powers and responsibilities of the Energy Market Regulatory Authority and the principles regarding the personnel affairs of its staff.

In the implementation of this Law, the following definitions shall apply:

- a) Minister: The Minister of Energy and Natural Resources,
- b) Ministry: The Ministry of Energy and Natural Resources,
- c) Board: The Energy Market Regulatory Board,
- ç) Authority: The Energy Market Regulatory Authority.”

(3) Article 9 the Law No. 4628 including its heading has been amended as follows.

#### **“Chairmanship, staff, status of authority personnel, method of appointment and personnel rights**

**ARTICLE 9** - The Chairmanship shall consist of the Chairman, Vice Chairmen and service units. Two Vice Chairman may be appointed through a Board decision in order to assist the Chairman in his duties regarding the Chairmanship of the Authority. Vice Chairman shall be responsible for carrying out the duties and instructions given by the Chairman and ensuring



coordination between the relevant service units. In addition, advisors to the chairman may be appointed by the Chairman, provided that the number of staff does not exceed the number set out in the Schedule (I) attached hereto.

The service units of the Authority and their duties and powers are as follows:

a) Electricity Market Department: To carry out the works of regulating the electricity market, establishing competitive conditions, protecting consumer rights and evaluating consumer complaints assigned to the Authority through this Law and other legislation and to perform all kinds of actions and transactions pertaining to licenses, certificates, permits and certifications.

b) Natural Gas Market Department: To carry out the works of regulating the natural gas market, establishing competitive conditions, protecting consumer rights and evaluating consumer complaints assigned to the Authority through this Law, the Natural Gas Market Law no. 4646 dated 18/4/2001 and other legislation and to perform all kinds of actions and transactions pertaining to licenses, certificates, permits and certifications.

c) Petroleum Market Department: To carry out the works of regulating the petroleum market, establishing competitive conditions, protecting consumer rights and evaluating consumer complaints assigned to the Authority through this Law, the Petroleum Market Law no. 5015 dated 4/12/2003 and other legislation and to perform all kinds of actions and transactions pertaining to licenses, certificates, permits and certifications, conduct national marker operations.

ç) Liquefied Petroleum Gas Market Department: To carry out the works of regulating the liquefied petroleum gas market, establishing competitive conditions, protecting consumer rights and evaluating consumer complaints assigned to the Authority through this Law, the Liquefied Petroleum Gas (LPG) Market Law no. 5307 dated 2/3/2005 and the Law on the Amendment of the Electricity Market Law and other laws and to perform all kinds of actions and transactions pertaining to licenses, certificates, permits and certifications.

d) Tariffs Department: To carry out the works of designating tariffs, approving the investment plans on which the electricity and natural gas tariffs are based, designating investment ceilings and approving demand forecasts, assigned to the Authority through this Law and other legislation.

e) Audit Department: To conduct the required inspections and audits in accordance with the relevant laws and secondary legislation in the markets in which the Authority operates, or have them conducted, to cooperate with authorized public institutions and organizations on these matters, to offer solutions for problems encountered in the markets.

f) Expropriation Department: To conduct or enable the conduct of the works related to the expropriation duties of the Authority specified in this Law and other laws in the markets within the scope of the duties of the Authority.

g) Legal Department: To represent the Authority in order to follow up and resolve any dispute in relation to the Authority and to apply for legal remedies when necessary, to provide legal consultancy services to the Chairman and other service units with respect to legal matters.

ğ) Strategy Development Department: To designate the strategies and policies of the Authority and to monitor practices, to maintain international relations of the Authority, to follow the sectoral developments and trends, to compile market data, to prepare the market development reports, to perform works related to consumer rights, to perform the duties assigned to the strategy development and financial services units through the Public Financial Management and Control Law no. 5018 dated 10/12/2003 and other legislation, to provide and maintain the information processing infrastructure.

h) Department of Human Resources and Support Services: To carry out all kinds of works and procedures regarding the development of management, workforce planning, personal affairs and financial and social rights of the Authority personnel, and administrative services.

i) Department of Press and Public Relations: To monitor written and visual media on the issues related to the field of activity of the Authority and provide necessary documentation, to plan the relations of the Authority with the press and the broadcasting organizations, and to manage the broadcasts and activities related to its public promotion.

i) Board Services Directorate: To carry out the secretariat services of the Board and the Board members and to organize the protocol works.

j) Private Secretary of the Chairmanship: To carry out the secretariat services of the Chairman and to organize protocol related works.

The scope of activity, duties, powers and responsibilities of the service units are designated in accordance with the abovementioned duties and functions through a regulation to be proposed by the Authority and the decision of the Council of Ministers.

The titles and numbers of the personnel to be employed in the Authority are shown in the Schedule (I) attached hereto. Changes to titles and ranks, insertion of new titles and cancellation of vacant positions, which shall not exceed the total number of personnel allowance, shall be made pursuant to Board decisions, provided that such actions are limited to the personnel titles in the schedules annexed to the Decree Law no. 190 on General Personnel and Procedure.

Duties required by the services of the Authority shall be carried out by contracted staff, employed via administrative service contracts. Other than the matters provided for in this Law, the personnel of the Authority are subject to the Civil Servants Law no. 657.

The members of the Board and the personnel of the Authority are also obliged to meet the conditions specified in paragraphs (1), (4), (5), (6) and (7) of section (A) of Article 48 of the Civil Servants Law no. 657.

The principal duties and services required by the duties assigned to the Authority shall be carried out by professional staff consisting of energy specialists and assistant energy specialists, and the personnel employed in other positions set out in the Schedule (I) attached hereto. Recruitment of assistant energy specialists, their competitive examinations, thesis preparations and qualification examinations and their appointment as energy specialists shall be regulated by regulations to be issued by the Board within the framework of the additional article 41 of the Civil Servants Law no. 657.

The Chairman and the members of the Board as well as the personnel of the Authority employed under an administrative labor contract for positions annexed to this Law shall be deemed insured under the scope of paragraph (c) of the first section of Article 4 of the Social Security and General Health Insurance Law no. 5510, dated 31/5/2006. Social security rights and obligations of the Chairman and the members of the Board as well as the personnel employed under administrative labor contracts for positions annexed to this Law shall be determined in accordance with the provisions of the Law no. 5510, save for the provision made under provisional Article 4 of the aforementioned law.

When the terms of office of the persons who were appointed as the Chairman or a member of the Board insured under paragraph (c) of the first section of Article 4 of the Law no. 5510 expire or when they wish to resign, their term of service shall be taken into consideration in the determination of their vested rights, ranks and seniority. Among the persons in question, the service periods of those who fall under the scope of the provisional Article 4 of the Law no. 5510 shall be deemed to be periods for which executive compensation and representation compensation

must be paid. No obligation for severance payment or termination payment shall arise with respect to the termination of employment of persons who are appointed as the Chairman or a member of the Board when they are insured by other public institutions or organizations under the scope of paragraph (c) of the first section of Article 4 of the Law no. 5510. The service periods requiring severance payment or termination payment for such persons shall be merged with their terms as Chairman or member of the Board and shall be taken into account in the calculation of their retirement bonus.

Persons who are appointed as the Chairman or members of the Board shall be dismissed from their previous duties as long as they serve in the Board. However, in the event that the persons who are appointed as members while they are public officials apply to their former institutions within thirty days of the expiry of their term or their request for dismissal, they shall be appointed to a position in accordance with their vested rights by the authorized appointment authority within one month, provided that they still meet the conditions for entering civil service. Until such appointment is made, the Board shall continue to make any and all payments to these individuals. The Board shall continue to fund any and all payments to be received by individuals appointed as the Chairman or as members of the Board, who are not employed at public institutions or organizations and whose terms have ended in the manner specified above, until they take another office or job up for up to two years.

The Chairman and members of the Board, personnel of the Authority and peer personnel determined pursuant to supplemental Article 11 of the Decree Law no. 375, dated 27/6/1989 shall be provided with all payments made pursuant to financial and social benefits, under the same principles and procedures, including taxes and any other legal deductions.”

(4) The following provisional article has been added to the Law No. 4628.

**“PROVISIONAL ARTICLE 19** – The current service unit heads are deemed to have been appointed as the heads of the relevant service units established by this Law, and the personnel whose titles remain unchanged are deemed to have been appointed to the newly-created positions with the same titles, with their current staff degrees, without the requirement for any other action.

Personnel whose position and titles are changed or cancelled shall be appointed to positions conforming their status within a period of six months as of the effective date of this article. Until the appointment is made, they may be assigned to works as may be required by the Authority. Until they are appointed to a new position, they shall continue to receive the payments corresponding to their former titles. Following their appointments to new positions, if the net monthly salary they receive for their former positions is greater than their monthly net salary for their new positions, the difference shall be paid thereto as monthly compensation without being subject to any tax or deduction so long as they hold their appointed position and until their remuneration for their new position equals thereto. The compensation received by those whose positions are subjected to any change and those who are transferred to other institutions upon their own will shall cease to be paid.

Regarding the personnel employed at the Authority as of 15/1/2012, the provisions of the legislation in force before the aforementioned date, including retirement, shall remain applicable with regard to the provisions of the provisional article 10 of the Decree Law No. 375.

(5) Articles 2, 3, 11, 13, 14, 15, additional article 3, provisional articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of the Law No. 4628 have been repealed.

(6) Fourth and sixth paragraphs of Article 6/C and provisional article 4 of the Law No. 5346 have been repealed.

(7) Sub-paragraph (b) of the first paragraph of provisional Article 6 of the Law on the Amendment of Liquefied Petroleum Gas (LPG) Market Law No. 5307, dated 2/3/2005 and Electricity Market Law have been repealed.”

### **References and regulations**

**ARTICLE 31** - (1) References made under other legislation to the articles of the Law No. 4628 repealed by this Law shall be deemed to have been made to the relevant provisions of this Law.

(2) The regulations required to be issued within the scope of this Law with no designated period for their issuance shall be issued within six months following the entry into force of this Law. The provisions of the present general regulatory acts including regulations, communiqués and Board resolutions shall continue to be implemented until the entry into force of the new regulations, to the extent they do not contradict this Law.

**ADDITIONAL ARTICLE 1** – <sup>1</sup>(1) Assigning, authorizing or purchasing services from specialized public institutions and organizations, legal entities holding distribution licenses or private law legal entities within the scope of this Law to carry out examination, designation, reporting, project approval and acceptance procedures to fulfill requirements of establishment and operation of electricity generation, transmission, distribution and consumption facilities in accordance with national interests and modern technology; and the qualifications, authorization, rights and obligations of these legal entities and the sanctions and other matters concerning these legal entities shall be governed by a regulation to be issued by the Ministry.

**ADDITIONAL ARTICLE 2** – <sup>2</sup>(1) The required permits and procedures for the construction, maintenance, repair and access to sites within the safety zones of energy transmission/distribution facilities to be built within the State forests that are within the scope of Forest Law No. 6831 and dated 31/8/1956 and the National Parks Law No. 2873, dated 9/8/1983, shall be obtained in accordance with the relevant legislation applicable to these sites and shall be finalized by the relevant institutions and organizations within sixty days from the date of application. If there is no other discount applicable on the land permit fee that needs to be collected, a 50% discount shall be applied.

(2) At the end of the forty-nine-year definite permit period, the permits and transactions of energy generation/transmission/distribution facilities that have fulfilled all of their obligations and complied with their written undertakings, shall be extended, upon their request, up to ninety nine years by increasing the most recently paid land permit fee by the revaluation rate designated in accordance with the Tax Procedure Law No. 213 dated 4/1/1961.

(3) Energy generation/transmission/distribution facilities for which forest permit transactions have not been completed within the scope of Law No. 6831 and Law No. 2873, although being established on forest areas before 1/1/2018, shall be converted to permitted usage following the payment of all fees payable pursuant to the applicable legislation, within one year from the date of entry into force of this paragraph. No fee is to be charged retroactively for these permits in relation to preceding years.

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<sup>1</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>2</sup> Inserted pursuant to Article 44 of the Law No. 7164, dated 14 February 2019.

**ADDITIONAL ARTICLE 3 – <sup>1</sup>(1) (Addition: 25/11/2020–7257/art. 39)** Disputes arising from the application of subparagraph (d) of the second paragraph of Article 8 shall be resolved by administrative courts.

**ADDITIONAL ARTICLE 4 – (1)<sup>2</sup> (Addition: 25/11/2020–7257/art. 40)** The provisions of the Law No. 3213, regarding the fees applicable to the personnel assigned for the examination and supervision of mining activities shall be applied to personnel assigned to perform the works and operations stated below.

a) Those assigned to supervise, examine and control the activities of electricity distribution companies within the scope of this Law

b) Personnel of the Ministry who are assigned to inspection activities of electricity generation facilities within the scope of Law No.5346, inspection activities and the acceptance procedures of electricity generation facilities carried out within the scope of Energy Efficiency Law No.5627 dated 18/4/2007, including those assigned to production and facility inspection of domestic components used in electricity generation facilities

c) TEİAŞ personnel subject to subparagraph (b) and (c) of the first paragraph of Article 3 of the Decree Law No. 399, who are assigned for the inspection, installation, maintenance or control services of open and closed transformer stations and energy transmission lines.

(2) These payments shall not be subject to any deduction, except stamp duty.

## **CHAPTER SIX**

### **Provisional and Final Provisions**

#### **National tariff regime**

**PROVISIONAL ARTICLE 1<sup>3</sup> - (1)** All public and private distribution companies and assigned supplier companies shall be included in the price equalization mechanism established to ensure the partial or complete protection of consumers purchasing electricity from tariffs subject to regulation from price differences attributable to interregional cost differences, and the implementation of such mechanism shall be set forth under a communiqué to be issued by the Authority.

(2) The price equalization mechanism shall be applied until 31/12/2025. During the application period of the price equalization mechanism, the application requirements of the national tariff shall be considered and cross subsidization shall be incorporated into the national tariff. The national tariff shall be prepared by the Authority and take effect upon the approval of the Board.

(3) The President has the authority to extend the period within the scope of the second paragraph of this article for up to five years.

(4) During the period in which the price equalization mechanism is applied, all accounts shall be kept separate in accordance with the relevant legislation.

#### **Build-Operate-Transfer Agreement**

**PROVISIONAL ARTICLE 2 - (1)** For the purpose of ensuring that the companies that are a party to build-operate-transfer agreements executed with the Ministry pursuant to the provisions

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<sup>1</sup> Inserted pursuant to Article 39 of the Law No. 7257, dated 25 November 2020.

<sup>2</sup> Inserted pursuant to Article 40 of the Law No. 7257, dated 25 November 2020.

<sup>3</sup> Amended pursuant to Article 41 of the Law No. 7257, dated 25 November 2020.

of the Law no. 3096, which have been terminated or will be terminated prior to the commissioning of the relevant facilities can resume their activities through obtaining licenses pursuant to this Law. In order to enable the foregoing, the Ministry of Finance may sell the immovable properties of the Ministry of Finance with easement rights established in favor of these companies for construction of these build-operate-transfer facilities pursuant to the agreement, at their market value, without taking into account the value of facilities located on such immovable properties.

### **Taxation regime**

**PROVISIONAL ARTICLE 3** - (1) Income generated from transfer, merger, demerger, partial demerger transactions in connection with the privatization of electricity distribution companies and generation facilities and/or companies made until 31/12/2023 shall be exempt from corporate tax. In the event that the transactions made pursuant to this article result in loss, such loss shall be disregarded in the designation of the taxable income of the institution. These demerger transactions shall be regarded as demerger transactions taking place within the scope of Corporate Tax Law no. 5520 dated 13/6/2006.

(2) Deliveries and services provided under this Article shall be exempt from value added tax. Taxes imposed with respect to the performance of such deliveries and services shall be deducted from the value added tax calculated for taxable transactions. The amount of value added tax not recovered through deduction shall not be refunded. The relevant provisions of Law no. 6102 shall not be applicable in respect of the procedures falling under the scope of this article.

(3) Unbundling of distribution and retail sales activities shall be deemed as a demerger within the scope of the Law No. 5520, provided that the transaction is concluded over book values and in accordance with the principles and procedures set out under this Law.

### **Regulations to ensure supply security**<sup>1</sup>

**PROVISIONAL ARTICLE 4** - (1) The following incentives shall be provided to the generation license holder legal entities commencing their operations for the first time before 31/12/2015, in order to create the required supply capacity and sufficient reserve capacity in the short term. The President has the authority to extend this period for up to five years.<sup>2</sup>

a) A fifty percent discount shall be made to transmission system usage prices of generation facilities for a period of five years from their commissioning dates.

b) Transactions/procedures performed in respect of generation facilities shall be exempt from charges, and documents executed shall be exempt from stamp duty during the investment period of generation facilities.

(2) The Ministry of Forestry and Water Affairs or the Ministry of Finance shall, in return for its value, grant a permit, or rent, establish an easement right or utilization right for immovable properties that will be used for energy conveyance line up to the facility, transportation and grid / network connection point to immovable properties that are classified as forestry land or which are under the private ownership of the Ministry of Finance or under the control and disposal of the State. The foregoing provision applies to generation facilities based on renewable energy resources pursuant to the Law no. 5346 and electricity generation facilities where mines referred to in Group IV (b) of Article 2 of the Mining Law no. 3213, dated 4/6/1985 are utilized as input subject to mining operation license and permit regulated by the Ministry.

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<sup>1</sup> Amended pursuant to the Decision published in the Official Gazette dated 01 January 2016 and numbered 2015/8317.

<sup>2</sup> Amended pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

(3) Where the immovable properties intended to be used for the purposes referred to in the second paragraph are classified as public-owned meadow, summer pasture, winter quarters and grassland and pasture within the scope of Law no. 4342, dated 25/2/1998, such immovable properties shall be registered under the name of the Ministry of Finance by changing its purpose of allocation, pursuant to the provisions of Law no. 4342. The Ministry of Finance shall rent or establish an easement right for such immovable properties, in consideration of their value.

(4)<sup>1</sup> Electricity generation facilities where the mines referred to in Group IV (b) paragraph of Article 2 of the Law no. 3213 are used as input under a mine operation license and permit as regulated by the Ministry, and which are to commence operation starting from the publication of this Law and until 31/12/2020, transport roads and from energy conveyance lines, including those which will be transferred to TEİAŞ or distribution companies, until the point of connection to the system specified in the licenses thereof, eighty-five percent deduction shall be applied to the values of investment and permits, rent, easement and utilization right for ten years starting from their license dates. The Forest Villagers Development Charge and Forestation and Erosion Control Charge shall not be demanded therefrom. Facilities which are established or will be established on mining sites, for which a tender is made or which are governed by an agreement for purposes of building electricity generation facilities by public institutions and organizations executed prior to the date of publication of this Law cannot take advantage of the discount and exceptions referred to under this paragraph. The President has the authority to extend the periods set forth under this paragraph for up to five years. <sup>(2)(3)</sup>

(5)<sup>4</sup> The transactions of the pre-license holder legal entities pertaining to the generation facilities established within the scope and the validity period of their pre-licenses shall be exempt from any fees and the documents issued for these transactions shall be exempt from stamp duty until the date specified in the first paragraph.

### **Electricity Fund**

**PROVISIONAL ARTICLE 5 - (1)** No interest shall be charged in the repayment of loans, which are or will be granted by the dissolved Electricity Fund, projected to be repaid to the Fund through the accumulation of additional funds in companies enabled through the reflection of such loans to the sales tariffs of the company pursuant to the Fund Agreements executed by and between the relevant companies and the Fund within the scope of projects realized under the Law no. 3096.

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<sup>1</sup> Amended pursuant to Article 42 of the Law No. 7257, dated 25 November 2020.

<sup>2</sup> The periods in this paragraph were extended until 31 December 2025 pursuant to the Decision annexed to the Council of Ministers Decision dated 5/6/2017 and numbered 2017/10451 published in the Official Gazette dated 28 July 2017 and numbered 30137.

<sup>3</sup> The phrase “by the Ministry, the generation facilities based on renewable energy resources within the scope of the Law no. 5346, which are to commence operation starting from the publication of this Law and until 31 December 2020, including those already in operation as of the publication date of this Law and which are to commence operation starting from the publication of this Law and until 31 December 2020” was replaced with “as regulated by the Ministry, and which are to commence operation starting from the publication of this Law and until 31 December 2020”, and the phrase “within the first ten years of the investment and operation periods as of the of the permit granted by the relevant authority” was replaced with “ten years starting from their license dates” pursuant to Article 42 of the Law no. 7257 dated 25 November 2020..

<sup>4</sup> Inserted pursuant to Article 85 of the Law No. 7103, dated 21 March 2018.

## **General lighting**<sup>123</sup>

**PROVISIONAL ARTICLE 6<sup>4</sup>** - (1) The lighting expenses made until 31/12/2025 at places which are lighted under the scope of general lighting shall be covered by the fund to be included in the budget of the Ministry and by general budget tax income of relevant municipalities and special provincial administrations. The President has the authority to extend the said period for up to five years. The deduction to be made from the general budget tax income shares of the municipalities shall be applicable as ten percent of the lighting expenses for metropolitan municipalities and municipalities in urban areas, and for other municipalities, as five percent of the lighting expenses. Other than such limits, ten percent of the lighting costs shall be covered by way of deduction from the share of the relevant special provincial special administration. The President has the authority to double the rates referred to under this paragraph. <sup>(5)</sup>

(2) General lighting decision will be adopted by the lighting committee consisting of the distribution company under the chair of the representative to be designated by the Ministry, relevant municipality and/or provincial special administration and the investments required for regions covered by the general lighting decision shall be made by the distribution company.

(3) Consumption and investment expenses relating to lighting at borders for security purposes shall be covered by the fund to be included in the budget of the Ministry of Internal Affairs, and the lighting expenses of places of worship which are open for worship of the public free of charge, by the fund to be included in the budget of the Presidency of Religious Affairs.

(4) TEDAŞ shall inspect the distribution companies at certain periods, in order to ascertain that the amount and price of consumption on bills sent by distribution companies are accurate. Where it is determined as a result of the inspections made, that excessive payment is made to distribution companies, the relevant distribution company shall be required to ensure the payment of the excessive portion of the payment amount within one month along with the interest that will be applicable to the period starting from the date of payment until the date of refund, which shall be calculated in accordance with the rate of default interest set forth under Article 51 of the Law no. 6183, dated 21/7/1953 on Collection Procedure of Public Receivables. Where the distribution company fails to make the payment within the said period, the said amount shall be offset against the current period receivables of the distribution company. If the receivables cannot be collected in the said manner either, the amount shall be subject to follow-up and collection by tax offices in accordance with the provisions of Law no. 6183. Eighty percent of the collections made due to overpayments shall be recorded as revenue with the general budget, and the remaining twenty percent shall be transferred to relevant local administrations. The Ministry has the authority to clarify any issues with respect to the implementation of the foregoing paragraph, and where

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1 The period in the first paragraph of this article pertaining to the coverage of general lighting expenses by the fund to be included in the budget of the Ministry of Energy and Natural Resources and by the general budget tax income of relevant municipalities and special provincial administrations was extended until 31 December 2017 pursuant to the third paragraph of article 1 of the Decision annexed to the Council of Ministers Decision dated 14 December 2015 and numbered 2015/8317 published in the Official Gazette dated 24 December 2015 and numbered 29572, and "31 December 2017" was subsequently replaced with "31 December 2020" pursuant to article 1 of the Decision annexed to the Council of Ministers Decision dated 25 December 2017 and numbered 2017/11162 published in the Official Gazette dated 30 December 2017 and numbered 30286 (bis 3).

2 The phrase "up to two years" in the second sentence of the first paragraph of this article was replaced with "up to five years" pursuant to Article 113 of the Law no. 7061 dated 28 November 2017.

3 The phrase "Council of Ministers" in the first paragraph of this article was replaced with "President" pursuant to Article 9 of the Decree no. 703 dated 2 July 2018.

4 Amended pursuant to Article 43 of the Law No. 7257, dated 25 November 2020.

5 The expression "31 December 2015" in this paragraph was replaced with "31 December 2025" pursuant to Article 43 of the Law no. 7257 dated 25 November 2020.



necessary, to set forth the principles and procedures through consultation with the Ministry of Finance.

(5) The Ministry shall make the arrangements required with respect to payments under the scope of the first paragraph within three months as of the effective date of this Law. During the said period of time, works and procedures relating to the payment of general lighting consumption expenses shall be borne by the Undersecretariat of the Ministry of Finance in accordance with the provisions of the provisional Article 17 of the Law no. 4628, repealed by this Law and of other relevant legislation. The inspection, follow-up and collection procedures with respect to the payments made from the budget of the Undersecretariat of the Ministry of Finance shall be carried out under the scope of the fourth paragraph, pursuant to the provisional Article 17 of the Law no. 4628 which is repealed by this Law.

(6) Technical principles relating to the metering with respect to the lighting as well as the principles and procedures relating to payment, deduction, implementation and inspection shall be set forth under a regulation to be put into effect by the Ministry.

### **Conversion of auto-producer licenses to generation licenses**

**PROVISIONAL ARTICLE 7** - (1) Legal entities holding an autoproducer license shall be granted a generation license ex officio within six months as of the date of publication of this Law, free of any license fees and without prejudice to their rights under the existing licenses, . Following the effective date of this Law, application may no longer be submitted to the Authority for auto-producer licenses; and applications already made shall be evaluated under the scope of generation licenses.

(2) In respect of entities privatized prior to the effective date of this Law, auto-producer licenses granted pursuant to the provisions of the Law no. 4628 shall be converted to generation licenses and the provisions of their sales/ transfer of operating rights agreements shall be incorporated into the generation license. License holders falling under this scope may, sell up to twenty percent of the electricity generation amount in the market within one calendar year. The Board may increase this rate, said discretion being reserved exclusively for instances where this may be required for supply security.

### **Making generation facilities compliant with environmental legislation**

**PROVISIONAL ARTICLE 8**- <sup>1</sup>(1)A cure period is granted until 31/12/2019 to EÜAŞ, its subsidiaries, affiliates, operation and operating units and their assets and generation facilities belonging to public generation companies and public generation companies to be established within the scope of Law No. 4046, including those privatized before the effective date of this article and those to be privatized after the effective date of this amendment, to make investments required for compliance with the environmental legislation and to complete the necessary permits required to obtained to comply with the environmental legislation. During this period and in relation to previous periods, electricity generation activity cannot be stopped or administrative fines cannot be issued to EÜAŞ or its subsidiaries, affiliates, operation and operating units and their assets and generation facilities belonging to public generation companies and public generation companies to be established within the scope of Law No. 4046, including those privatized before or after the effective date of this article, based on this reason. The procedures and principles regarding the realization of investments in compliance with environmental

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<sup>1</sup> Amended pursuant to Article 25 of the Law No. 6719, dated 04 June 2016.

legislation and the completion of the necessary permits required to comply with environmental legislation shall be regulated by a regulation to be issued by the Ministry within one year from the date of entry into force of this article.

#### **Transactions regarding licenses that have not or could not commence operation**

**PROVISIONAL ARTICLE 9** - (1) Legal entities that are unable to satisfy the required obligations to commence the construction of the generation facility during the pre-construction period specified in the generation license shall be granted a period of six months in addition to their remaining pre-construction period, if any, and only six months if the pre-construction period lapsed. Save for events of force majeure, licenses of the legal entities who fail to fulfill their obligations within this additional period shall be revoked.

(2) The first paragraph shall not be applicable to licenses that are granted for coal sites obtained by way of royalty agreements from public institutions for purposes of establishing electricity generation facilities and the licenses for which the Authority has been informed of valid grounds acceptable to the Board that the necessary expropriation and railway relocation procedures cannot be completed within the pre-construction period specified under the license.

(3) Licenses or the applications of legal entities wishing to terminate their existing generation or auto-producer licenses or their license applications shall be terminated and the security deposits of these legal entities shall be refunded, provided they file an application to the Authority within one month from the effective date of this Law.

#### **Conversion of existing license applications into pre-licenses**

**PROVISIONAL ARTICLE 10** - (1) Generation license applications yet to be finalized by the Authority as of the effective date of this Law shall be considered as pre-license applications and shall be finalized accordingly.

#### **Grant of supply license**

**PROVISIONAL ARTICLE 11** - (1) Supply licenses shall be granted ex officio, free of charge, to the legal entities holding wholesale and retail sales licenses, by preserving their rights arising out of their existing licenses.

#### **Licensing of generation facilities and projects within the scope of existing agreements**

**PROVISIONAL ARTICLE 12** - (1) Generation facilities and projects within the scope of existing agreements shall be granted licenses ex officio pursuant to the relevant legislation within one year from the effective date of this Law, provided that they shall be limited to the rights and obligations set out under the existing agreements and the term of such agreements.

Investment guarantees by the Ministry of Finance

**PROVISIONAL ARTICLE 13** - (1) No investment guarantee shall be provided by the Ministry of Finance to investments made for the purposes of electricity generation, transmission, distribution and trading within the framework of the provisions of the Laws no. 3096, 3996 and 4283.

#### **PROVISIONAL ARTICLE 14**<sup>1</sup>

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<sup>1</sup> Repealed pursuant to the Case numbered 2013/65 and Decision numbered 2014/93 dated 22 May 2014 of the Constitutional Court.

### **Idle hydroelectric power plants**

**PROVISIONAL ARTICLE 15** - (1) A water usage right agreement shall be executed by DSI for a price of 1 kuruş (TRY 0.01)/kilowatt hour pursuant to the relevant regulations with the right holders of hydroelectric power plants which carried out electricity generation activities prior to the effective date of Law no. 4628, but could not carry out generation activities or connect to the distribution system due to various reasons following the effective date of the aforementioned Law, without making any tender announcement, provided that these right holders apply within six months following the effective date of this Law, and there are no conflicts with existing projects.

### **Ongoing works and transactions**

**PROVISIONAL ARTICLE 16** - (1) The Authority shall finalize the expropriation and transfer procedures of immovable properties required for electricity generation and distribution facilities regarding which an expropriation resolution or a transfer resolution was adopted in accordance with Article 30 of the Law no. 2942, prior to the effective date of this Law.

**PROVISIONAL ARTICLE 17<sup>1</sup>** - (1) In the event that legal entities whose license applications for wind energy-based generation activity were approved through a decision of the Board, but were rejected before the effective date of this provision due to failure of the legal entity to satisfy the requirements set out in the approval decision, apply to the Authority within one month from the effective date of this article and if TEİAŞ or electricity distribution companies certify that their positive connection opinion remains valid, the applications made by these legal entities shall be deemed as pre-license applications and the relevant legal entities shall be granted pre-licenses on the condition that they fulfill the obligations specified in this Law. The security deposits of legal entities subject to this article shall not be refunded, if previously recorded as revenue.

### **Measures for reducing losses in the distribution system**

**PROVISIONAL ARTICLE 18<sup>2</sup>** - (1) Until 1/1/2016, the Board shall be authorized to make arrangements in distribution regions where the percentage of technical and non-technical losses is above the national average that differ from those enforced in other distribution regions, and to re-designate the target loss-leakage rates with regard to the realizations of the previous year and including the subsequent implementation periods.

**PROVISIONAL ARTICLE 19<sup>3</sup>** - (1) Until the regulations stipulated by the Law containing this provision are put into effect, the provisions of existing regulations, communiqués and Board decisions that do not contradict this Law shall continue to be enforced.

**PROVISIONAL ARTICLE 20<sup>4</sup>** - (1) The provisions of Article 17 shall be applicable to all execution proceedings, lawsuits and applications in relation to distribution, meter reading, retail sales service, transmission and loss-leakage fees accrued in accordance with Board decisions.

### **Actions pertaining to pre-licenses or licenses that have not yet become operational**

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<sup>1</sup> Inserted pursuant to Article 58 of the Law No. 6495, dated 12 July 2013.

<sup>2</sup> Inserted pursuant to Article 18 of the Law No. 6639, dated 27 March 2015.

<sup>3</sup> Inserted pursuant to Article 26 of the Law No. 6719, dated 04 June 2016.

<sup>4</sup> Inserted pursuant to Article 26 of the Law No. 6719, dated 04 June 2016.

**PROVISIONAL ARTICLE 21<sup>1</sup>** - (1) If legal entities wishing to terminate their existing generation or auto-producer pre-licenses, licenses or license applications apply to the Authority within two months as of the entry into force of this article, their pre-licenses, licenses or license applications shall be terminated and their security deposits shall be refunded.

**PROVISIONAL ARTICLE 22<sup>2</sup>** - (1) TETAŞ and EÜAŞ have been merged under EÜAŞ as of the effective date of this provision. All personnel working in the dissolved TETAŞ on the effective date of this provision shall be deemed to have been automatically assigned to EÜAŞ together with their position, rank, financial and personnel rights. Any and all immovable and movable property, vehicles, tools, equipment and materials, all written and electronic records and other documents belonging to TETAŞ shall be deemed to have been transferred to EÜAŞ as of the effective date of this provision. The Minister of Energy and Natural Resources is authorized to resolve any uncertainties in relation to organization, personnel, staff, fixture transfer and similar issues that may arise during the transfer of the dissolved TETAŞ to EÜAŞ.

**PROVISIONAL ARTICLE 23<sup>3</sup>** - (1) EÜAŞ shall automatically replace the dissolved TETAŞ as a party in lawsuits and execution proceedings filed for and against TETAŞ prior to the entry into force of this provision. The statutory and contractual rights, receivables and liabilities of the dissolved TETAŞ shall be deemed to have been automatically transferred to EÜAŞ.

**PROVISIONAL ARTICLE 24<sup>4</sup>** - (1) References to Article 26 and the repealed Article 27 of this Law in other legislation shall be deemed to have been made to the relevant provisions of Law no. 6446. References made to the dissolved TETAŞ in the legislation shall be deemed to have been made to EÜAŞ.

#### **Establishing a consumption link in unlicensed generation projects**

**PROVISIONAL ARTICLE 25<sup>5</sup>** – Connection agreement periods within the scope of the activities included in section (b) of the first paragraph of Article 14 of this Law shall be deemed to be automatically extended for those whose consumption-production connection has been severed from the date of the invitation letter until the end of the connection agreement period. If an old and/or new consumption facility subscription with at least the same features as the subscription subject to the invitation letter is created and notified to the relevant network operator within thirty days from the date of entry into force of this provision, the connection agreement period shall automatically extend to cover one hundred and twenty days following the said notification date. With respect to those whose provisional acceptance has not been made despite the expiration of the connection agreement period and those whose connection agreement is yet to expire, the connection agreement period shall automatically extend to cover one hundred and twenty days from the effective date of this article.

#### **Contract extension and transfer**

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<sup>1</sup> Inserted pursuant to Article 18 of the Law No. 7020, dated 18 May 2017.

<sup>2</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>3</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>4</sup> Inserted pursuant to Article 9 of the Decree No. 703, dated 02 July 2018.

<sup>5</sup> Inserted pursuant to Article 31 of the Law No. 7186, dated 17 July 2019.

**PROVISIONAL ARTICLE 26<sup>1</sup>** – (1) Before the effective date of this article; periods foreseen for the relevant contracts for which competitions were held within the scope of the twelfth paragraph of Article 5 and the relevant legislation and continuing as of the effective date of this article and the rights and obligations within the scope of Transfer Agreements and Electricity Sales Agreements concluded for the purpose of establishing renewable energy resource or domestic coal-based electricity generation facilities, in which privatization tenders are organized within the scope of the fifth paragraph of Article 18 and which continue as of the effective date of this article, shall be extended for thirty-six months from the effective date of this article.

If a request is made pursuant to this article within the extended period, the relevant contract/agreement (including the transfer of shares within the project company) may be transferred. In this case, the conditions in the first competition/tender, excluding the technology provider condition, are to be sought in the ones that will take over. However, restrictions and sanctions arising from the transfer shall not be applied. No claim can be made from the administration due to the transfer. In this context, stamp duty will not be collected from contracts to be transferred.

(2) Contracts/agreements executed under the first paragraph shall be subject to private law provisions. The parties may make amendments to the aforementioned contracts/agreements subject to the approval of the Ministry of Energy and Natural Resources, including postponing the termination right of the administration, provided that the subject and value of the contract remain unchanged and amendments are limited to the issues regarding the rights of financiers. This clause shall also apply to contracts/agreements already executed.

**PROVISIONAL ARTICLE 27<sup>2</sup>** – (1) (**Addition: 25/3/2020 – 7226/art. 37**) The references to the twelfth and thirteenth paragraphs of Article 5, which have been repealed by the Law introducing this provision, shall be deemed to have been made to Article 4 of Law no. 5346.

(2) The provisions of the twelfth and thirteenth paragraphs of Article 5, which have been repealed by the Law introducing this provision, shall remain applicable with respect to the contracts executed as a result of the renewable energy resource zone competitions held within the scope of the aforementioned paragraphs.

### **Ongoing works and transactions regarding acquisition of immovable property**

**PROVISIONAL ARTICLE 28<sup>3</sup>** - (1) The following shall apply to transactions concluded prior to the entry into force of this provision,

a) Transactions in relation to decisions of Board regarding the acquisition of immovable property required for the electricity distribution facilities shall be concluded by TEDAŞ, and

b) The processes regarding immovable property for which an expropriation decision has not been adopted by the Ministry of Environment and Urbanization and/or the transfer transactions have not been initiated for immovable property required for the electricity distribution facilities in accordance with Article 30 of the Law no. 2942 shall be concluded by the Authority.

### **Right to terminate and amend licenses and pre-licenses**

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<sup>1</sup> Inserted pursuant to Article 32 of the Law No. 7186, dated 17 July 2019.

<sup>2</sup> Inserted pursuant to Article 37 of the Law No. 7226, dated 25 March 2020.

<sup>3</sup> Inserted pursuant to Article 44 of the Law No. 7257, dated 25 November 2020.

**PROVISIONAL ARTICLE 29<sup>1</sup>** - (1) Provided that the legal entities wishing to terminate their existing generation or auto-producer licenses, pre-licenses or license applications under this Law or to amend them by decreasing their installed capacity prior to the entry into force of this article apply to the Authority within two months following the entry into force of this article, their licenses, pre-licenses or license applications shall be terminated or amended and their security deposits shall be refunded in part or whole, as applicable.

**Enforcement**

**ARTICLE 32** – (1) This Law shall enter into force on the date of its publication.

**Execution**

**ARTICLE 33** – (1) The provisions of this Law shall be enforced by the Council of Ministers.

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<sup>1</sup> Inserted pursuant to Article 45 of the Law No. 7257, dated 25 November 2020.

**TABLE ON THE ADMINISTRATIVE FINES SET OUT IN ARTICLE 16 OF THE  
LAW NO. 6446**

(Pursuant to the Communiqué issued by the Energy Market Regulatory Authority published on the Official Gazette dated 12/12/2020 and numbered 31332, the administrative fines referred to in Article 16 of the Law no. 6446 shall be enforced from 1/1/2021 as set out in the table below.)

<b>RELEVANT PROVISION OF ARTICLE 16 OF THE LAW NO. 6446</b>	<b>ADMINISTRATIVE FINE FOR THE YEAR 2021 (TRY)</b>
Paragraph (a) of the first section of Article 16	1,188,204
Paragraph (b) of the first section of Article 16	1,188,204
Paragraph (c) of the first section of Article 16	1,188,204
Paragraph (ç) of the first section of Article 16	1,901,130
Paragraph (d) of the first section of Article 16	2,138,770
Paragraph (e) of the first section of Article 16	2,376,415
Eighth section of Article 18	944

**LIST OF THE LEGISLATION OR CONSTITUTIONAL COURT DECISIONS  
SUPPLEMENTING OR AMENDING THE LAW NUMBERED 6446**

<b>Number of the Amending Law/Canceling Constitutional Court Decision</b>	<b>Amended or Cancelled Articles of the Law numbered 6446</b>	<b>Effective Date</b>
6495	PROVISIONAL ARTICLE 17	2/8/2013
Communiqué published on the Official Gazette dated 30/12/2013 and numbered 28867 (bis)	16	1/1/2014
6552	15	11/9/2014
Communiqué published on the Official Gazette dated 12/12/2014 and numbered 29203	16	1/1/2015
6639	PROVISIONAL ARTICLE 18	15/4/2015
Constitutional Court Decision dated 22/5/2014 and numbered E: 2013/65, K.: 2014/93	PROVISIONAL ARTICLE 14	24/6/2015
	PROVISIONAL ARTICLE 8	Six months as of 24/6/2015 (24/12/2015)
Communiqué published on the Official Gazette dated 22/12/2015 and numbered 29570	16	1/1/2016
6719	3, 5, 6, 7, 9, 14, 17, 18, 19, 27, PROVISIONAL ARTICLE 8, PROVISIONAL ARTICLE 19, PROVISIONAL ARTICLE 20	17/6/2016
6745	20	7/9/2016
Communiqué published on the Official Gazette dated 8/12/2016 and numbered 29912	16	1/1/2017
7020	27, PROVISIONAL ARTICLE 21	27/5/2017
7033	13	1/7/2017
7061	16, PROVISIONAL ARTICLE 6	5/12/2017
Communiqué published on the Official Gazette dated 21/12/2016 and numbered 30277	16	1/1/2018



<b>Number of the Amending Law/Canceling Constitutional Court Decision</b>	<b>Amended or Cancelled Articles of the Law numbered 6446</b>	<b>Effective Date</b>
Communiqué published on the Official Gazette dated 29/12/2016 and numbered 30285	16	1/1/2018
Council of Ministers Decision published on the Official Gazette dated 30/12/2017 and numbered 30286 (bis 3)	16	1/1/2018
Constitutional Court Decision dated 28/12/2017 and numbered E:2016/150, K.:2017/179	17	15/2/2018
7103	11, 14, PROVISIONAL ARTICLE 4	27/3/2018
7139	14	28/4/2018
Decree/703	11, 14, 17, 18, 20, 26, 27, ADDITIONAL ARTICLE 1, PROVISIONAL ARTICLE 1, PROVISIONAL ARTICLE 4, PROVISIONAL ARTICLE 6, PROVISIONAL ARTICLE 22, PROVISIONAL ARTICLE 23, PROVISIONAL ARTICLE 24	On the date President came to the office by taking an oath as a result of the Parliamentary and Presidential elections dated 24/6/2018 (9/7/2018)
7162	3, 11	30/1/2019
7164	7, ADDITIONAL ARTICLE 2	28/2/2019
7186	PROVISIONAL ARTICLE 25, PROVISIONAL ARTICLE 26	Provisional Article 26: The date of its publication to be enforced from 17/1/2019 The other article: The date of its publication
7226	5, 17, PROVISIONAL ARTICLE 27	26/3/2020
7257	3, 5, 8, 9, 14, 15, 17, 19, ADDITIONAL ARTICLE 3, ADDITIONAL ARTICLE 4, PROVISIONAL ARTICLE 1,	2/12/2020

<b>Number of the Amending Law/Canceling Constitutional Court Decision</b>	<b>Amended or Cancelled Articles of the Law numbered 6446</b>	<b>Effective Date</b>
	PROVISIONAL ARTICLE 4, PROVISIONAL ARTICLE 6, PROVISIONAL ARTICLE 28, PROVISIONAL ARTICLE 29	