

## ELECTRICITY MARKET LICENSING REGULATION

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### CHAPTER ONE

#### Objective, Scope, Legal Basis, Definitions and Abbreviations

##### Objective

**ARTICLE 1** – (1) The objective of this Regulation is to set forth the principles and procedures regarding the pre-license and licensing practices in the electricity market, and the rights and obligations of pre-license and license holders.

##### Scope

**ARTICLE 2** – (1) This Regulation covers the pre-licenses and licenses that must be obtained in order to operate in the electricity market and the basic provisions regarding these licenses, the licensing procedures, and the rights and obligations of pre-license and license holder legal entities.

##### Legal Basis

**ARTICLE 3** – (1) This Regulation has been prepared pursuant to the Electricity Market Law no. 6446, dated 14/03/2013.

##### Definitions and Abbreviations

**ARTICLE 4** – (1) The following definitions shall apply in the implementation of this Regulation:

a)<sup>1</sup> Accredited institute: An institute accredited by the Turkish Accreditation Agency within the framework of the Law no. 4457, dated 27/10/1999 on the Establishment and Duties of the Turkish Accreditation Agency in accordance with TS EN 61400-12-1 Power Performance Measurements of Wind Turbines Generating Electricity, TS EN ISO 17025 General Requirements regarding Competence of Testing and Calibration Laboratories as well as the seventh chapter of this Regulation regarding solar measurements;

b) Ministry: The Ministry of Energy and Natural Resources;

c) Chairman: The Chairman of the Energy Market Regulatory Board;

ç)<sup>2</sup> Connection agreement: Agreement consisting of general and special provisions, which is made for the connection of a generation company, distribution company, supplier company or consumer to the transmission system or distribution system;

d) Distribution: Conveyance of electricity through 36 kV or a lower voltage lines;

e) Distribution company: Legal entity engaged in electricity distribution within a designated zone;

f) Distribution region: Area specified in the license of a distribution company;

g) Distribution system: Electricity distribution facilities and network operated by a distribution company within the distribution zone designated to it under its license;

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<sup>1</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>2</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

ğ) 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 the area between building entries and the meters;

h) DSİ: General Directorate of State Hydraulic Works;

ı) Interconnection usage agreement: Agreement executed between the system operator and a license holder legal entity receiving service over the international interconnection lines operated by the system operator, governing the principles and procedures regarding the use of interconnection lines;

i) EPİAŞ: Energy Markets Operator Company of Turkey;

j) Articles of association: For joint stock companies/corporations, the agreement governed by articles 339 et seq. of the Turkish Commercial Code no. 6102, dated 13/1/2011, and for limited liability companies, the company agreement governed by articles 575 et seq. of the said Law;

k) EÜAŞ: Electricity Generation Corporation;

l) GES: Solar Power Based Electricity Generation Facility;

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

n) Solar measurement: Meteorological measurements that involve minimum solar radiation and sunshine exposure duration measurements;

o) Bilateral agreement: Commercial agreement 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;

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

p) Transmission system: Electricity transmission facilities and network;

r) Transmission facility: Facilities from the terminal pole following the switchyard of a generation or consumption facility where 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;

s)<sup>3</sup> Applicable legislation: Laws, Presidential decree, President decision, regulations, licenses, communiqués, circulars and Board decisions regarding the electricity market;

ş) 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;

t) Law: Electricity Market Law no. 6446, dated 14/03/2013;

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

ü) 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 the assets of a legal entity established through agreements or by other means and particularly through a property right or operating right, or rights

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<sup>3</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

allowing decisive influence on the formation of corporate bodies or decisions of a legal entity, or rights created through agreements;

v) User: An individual or legal entity that connects to the transmission or distribution system or uses these systems or interconnection lines;

y) Authority: Energy Market Regulatory Authority;

z) Board: Energy Market Regulatory Board;

aa) License: The permit certificate granted to legal entities by the Authority to operate in the market,

bb) Existing agreements: Agreements, concession agreements and implementation agreements executed prior to the effective date of the Law in accordance with the provisions of the Law no. 3096, dated 4/12/1984, the Law no. 3996, dated 8/6/1994, the Law no. 4283, dated 16/7/1997, the Law no. 4501, dated 21/1/2000, and the relevant regulations;

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

çç) Customer: TEİAŞ, generation companies, supply companies, distribution companies and eligible consumers;

dd) General Directorate of Meteorology (MGM): Central and provincial organizations of the General Directorate of Meteorology;

ee)<sup>4</sup> Organized wholesale electricity markets: A day-ahead and intraday market, 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; other electricity markets which require future physical delivery; 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 power market and the ancillary services market organized and operated by TEİAŞ;

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

gg) Special direct line: A line that is outside the transmission or distribution network, established and operated in accordance with the standards applicable to the national transmission or distribution system and in accordance with the provisions of the system control agreement to be executed, in order to convey electricity between the generation facility of a generation license holder legal entity and its customers and/or affiliates, or to export electricity that is generated in a generation facility established by a generation license holder within provinces that are located along the border of Turkey without establishing a connection to the transmission or distribution system;

ğğ) Retail sale: Sale of electricity to consumers;

hh)<sup>5</sup> Retail sale service: Invoicing and collection services and services provided to consumers through the consumer services center by assigned supply companies, excluding electricity and/or capacity sales;

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

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<sup>4</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>5</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

ii) Wind measurement: Meteorological measurements that involve wind speed and direction measurements at the minimum;

jj) Captive consumer: Individuals or legal entities that may purchase electricity and/or capacity only from the assigned supply company within their region;

kk) Eligible consumer: Individuals or legal entities eligible to choose their supplier due to having an electricity consumption volume higher than the threshold designated by the Board, or that are directly connected to the transmission system, or qualify as the legal entity of an organized industrial zone;

ll) 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;

mm) System control agreement: Agreements subject to private law provisions executed between TEİAŞ 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;

nn) Supplier of last resort: A supply license holder company tasked with supplying energy to consumers that fall within the scope of supply of last resort;

oo) Supply of last resort: Electricity supply to consumers that qualify as eligible consumers, but that cannot procure electricity from a supplier other than the supply license holder company authorized as the supplier of last resort;

öö) Standard measurement: Measurement taken by legal entities that apply for a pre-license on the site that the facility will be established, in accordance with the conditions set forth under this Regulation;

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

rr) Supply: Wholesale or retail sale of electricity and/or capacity;

ss) Supplier: Generation companies and companies holding a supply license that supply electricity and/or capacity;

tt) Facility: Facility, network or equipment through which activities of electricity generation, transmission or distribution are being carried out or are commissioned for said activities to be carried out;

uu) TEDAŞ: Turkish Electricity Distribution Corporation;

üü) TEİAŞ: Turkish Electricity Transmission Corporation;

vv)<sup>6</sup>

yy) Supplier company: A legal entity that can engage in activities of wholesale and/or retail sale, import, export and trade of electricity and/or capacity;

zz) Technical interference permit: Permit granted to relevant persons by the relevant institution through the Ministry, either affirmatively or conditionally, depending on the outcome of the Technical Interference Analysis,

aaa) Wholesale: Sale of electricity and/or capacity for resale;

bbb) Consumer: One that purchases electricity for its own use;

ccc)<sup>7</sup> Derivative markets: Markets where electricity and/or capacity is traded at the present, in anticipation of a future cash settlement;

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<sup>6</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>7</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

ççç) 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 zone methods;

ddd) UTM Coordinate: Coordinate (ED 50 Datum) assigned on the "Universal Transversal Mercator" projection on a six degree segment basis;

eee) Unit: Each generation group that can independently take on and take off load, each gas turbine and generator for combined cycle power plants and the share of the steam turbine and generator that will work in tandem with the gas turbine and generator;

fff) Generation: Transformation of energy resources into electricity at electricity generation facilities;

ggg) Generation facility: Facilities where electricity is generated;

ğğğ) 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;

hhh) 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 to ensure the electricity supply complies with the required quality conditions as set out in detail under the relevant regulations;

ııı)<sup>8</sup> Generation facilities based on renewable energy resources: Generation facilities based on wind, solar, geothermal, biomass, , wave, current and tide, as well as hydroelectric generation facilities that are channel type or that have a reservoir area of less than fifteen square kilometers;

ııı)<sup>9</sup> Corporate Information System: Computers used by the employees of the organization, as well as all files, applications, databases, e-mail servers and network infrastructure that serve the same;

ıııı)<sup>10</sup> Industrial Control Systems: Information and communication systems that enable monitoring from one or more centers and occasional management of processes, such as energy generation, processing of crude oil, coal and similar raw materials that provide energy to render them ready for consumption, and transfer of energy through transmission or distribution layers;

ııııı)<sup>11</sup> Connection Area: Area designated by TEİAŞ which encompasses territorial administrative boundaries of province(s) ;

ıııııı)<sup>12</sup> Registered Electronic Mail (KEP) Address: Qualified form of electronic mail that evidence delivery and receipt of same, as a valid form of notification to capital companies<sup>13</sup> under Article 7/a of the Notification Law no. 7201, dated 11/2/1959;

ııııııı)<sup>14</sup> Guarantee: Bank letter of guarantee that is issued with the Authority as its beneficiary and in line with the template designated by Board decision, or a guarantee that is envisaged to the submitted to the Authority in accordance with this Regulation that has a value in cash in Turkish Lira currency;

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<sup>8</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>9</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 26 December 2014 and numbered 29217.

<sup>10</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 26 December 2014 and numbered 29217.

<sup>11</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>12</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>13</sup> *i.e.*, company where the liability of shareholders are limited to the amount of their respective capital undertaking.

<sup>14</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

nnn)<sup>15</sup> YEKA: Renewable energy resource areas to be designated within the scope of Article 4 of the Law no. 5346, dated 10/5/2005 on the Utilization of Renewable Energy Resources for the Purpose of Generating Electricity;

ooo)<sup>16</sup> YEKA Regulation: Renewable Energy Resource Areas Regulation published in the Official Gazette dated 9/10/2016 and numbered 29852;

ööö)<sup>17</sup> General Directorate of Energy Affairs: General Directorate of Energy Affairs of the Ministry of Energy and Natural Resources;

ppp)<sup>18</sup> National Electronic Notification System (UETS): The electronic notification system to be established through the medium of the Post and Telegraph Corporation (PTT), by the institutions and authorities that are entitled to issue notifications under the Notification Law no. 7201, dated 11/2/1959;

rrr)<sup>19</sup> Energy Market Regulatory Authority (EMRA) Application System: The system that enables electronic submission of applications for all pre-license and license transactions that are carried out before the Authority;

sss)<sup>20</sup> Local mine: Mines that are extracted domestically and that are specified in subparagraph (b) of the paragraph titled "Group IV mines" of the second paragraph of Article 2 of the Mining Law no. 3213, dated 4/6/1985;

şşş)<sup>21</sup> Multi-resource electricity generation facility: Combined renewable electricity generation facility, combined electricity generation facility, electricity generation facility with supporting resource and co-fired electricity generation facility;

ttt)<sup>22</sup> Combined electricity generation facility: A single electricity generation facility established to generate electricity from more than one energy resource that are connected to the network through the same connection point;

uuu)<sup>23</sup> Combined renewable electricity generation facility: A single electricity generation facility established to generate electricity from more than one fully renewable energy resource that are connected to the network through the same connection point;

üüü)<sup>24</sup> Co-fired electricity generation facility: In connection with electricity generation facilities where resources other than renewable energy resources are utilized, a single electricity generation facility where a renewable auxiliary resource is burned in the same facility as the main resource;

vvv)<sup>25</sup> Generation facility with supporting resource: A single electricity generation facility where an additional energy resource is used in the thermal transformation process of generation facilities;

yyy)<sup>26</sup> Main resource: The resource preferred during pre-license or license applications regarding electricity generation facilities with multiple resources;

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<sup>15</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>16</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>17</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>18</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>19</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>20</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>21</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>22</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>23</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>24</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>25</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>26</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

zzz)<sup>27</sup> Auxiliary resource: Resource(s) other than the main resource, that are not of the same type as the main resource and which are used in the pre-license or license application regarding multi-source electricity generation facilities;

aaaa)<sup>28</sup> Floating GES: Solar power based electricity generation units installed on water surfaces within the power plant sites of hydroelectric generation facilities with reservoirs or regulators;

bbbb)<sup>29</sup> Independent electricity storage facility: An electricity storage facility which is connected directly to the network without having any connection with a generation or consumption facility;

cccc)<sup>30</sup> Electricity storage unit adjoined to the generation facility: An electricity storage unit within the boundaries of the power plant site, which can store the electricity generated in the generation facility or the electricity withdrawn from the system, and which can feed the stored energy into the system for reuse;

çççç)<sup>31</sup> Trigenation: Energy generation facilities where the combined generation of electricity together with heating and cooling processes are simultaneously carried out;

dddd)<sup>32</sup> Electricity generation facility with storage: Generation facility established within the scope of the tenth and eleventh paragraphs of Article 7 of the Law;

eeee)<sup>33</sup> Electricity storage capacity: Total volume of electricity that an electricity storage unit can store, as expressed in terms of megawatt hours;

ffff)<sup>34</sup> Installed capacity of electricity storage unit: Maximum power that the electricity storage unit can be feed into the system instantaneously, as expressed in megawatt terms.

2- Other expressions and abbreviations used in this Regulation shall have the meanings and scope attributed to them under the relevant legislation.

## **CHAPTER TWO**

### **Activities Subject to License and Exemptions**

#### **Obligation to obtain pre-license and license**

**ARTICLE 5– (1)**<sup>35</sup> Excluding the exceptions set out under this Regulation, legal entities that would like 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. Depending on the connection point and the physical condition of the facility, the Board may process units of multiple projects under a single pre-license or license. The auxiliary resource unit used in electricity storage unit within the electricity generation facility with storage, electricity storage unit adjoined to the electricity generation facility and electricity generation facilities with multiple resources shall be considered as belonging to the facility based on the main resource, and the facility shall be evaluated under a single pre-license or license.<sup>36</sup>

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<sup>27</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>28</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>29</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>30</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>31</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>32</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>33</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>34</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>35</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>36</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

(2) If the legal entity to be engaged in generation activity will carry out the activity in more than one facility, it must obtain a separate pre-license for each facility. However, generation facilities based on the same type of renewable energy resource installed on multiple structures or extensions may be processed under a single pre-license or generation license, provided that these facilities are connected to the system through the same point.

(3)<sup>37</sup> Licenses are non-transferable. However, the following cases are not considered as a license transfer;

a. In accordance with Article 59 of the Turkish Commercial Code no. 6102, a license holder legal entity may transfer its rights and obligations under this Regulation to another legal entity by way of merger or demerger within the framework of the Turkish Commercial Code no. 6102.

b. The rights and obligations of a generation license holder legal entity under this Regulation can be transferred to another legal entity that has the same shareholding structure as the former, provided that the approval of the Board is obtained and the latter legal entity fulfills the obligations set forth under this Regulation, whereby a new license in continuation of the previous license shall be granted to the legal entity whose acquisition has been duly approved. The rights and obligations of a generation license holder public legal entity under this Regulation may be transferred to a wholly-owned subsidiary of such legal entity, subject to Board approval, whereby a new license in continuation of the previous license shall be granted to the legal entity whose acquisition has been duly approved. The Board shall refuse license applications by legal entities that are granted a license in continuation of the previous license as explained under this sub-paragraph, in case of any change to their shareholding structure by way of share transfer (publicly traded shares excluded) prior to the grant of the license. The obligations of the legal entity that is granted a license and the period within which such obligations must be fulfilled shall be specified in the Board decision regarding issuance of a new license in continuation of the previous license. In the event that the foregoing obligations are not timely fulfilled, excluding events of force majeure and cases approved by the Board, the Board shall reject such application through a Board decision.

c.<sup>38</sup> A generation license holder legal entity may transfer the generation facility covered by its license to another legal entity intending to carry on the activities covered by such license, through a separate transaction that results in change in the operating right, such as sale, transfer or lease, subject to Board approval. The legal entity to take over a generation facility in the foregoing manner must obtain the approval of the Authority prior to the transfer. The legal entity that takes over the generation facility shall be given a new license in continuation of the previous license and the license in question shall take effect upon the completion of the transfer and termination of the previous license. The obligations of the legal entity that is granted a license and the term within which such obligations must be fulfilled shall be specified in the Board decision regarding issuance of a new license in continuation of the previous license.

ç.<sup>39</sup> In the event that limited recourse or non-recourse project finance is provided by banks and/or financial institutions to a generation license holder legal entity, if the banks and/or financial institutions, in accordance with the provisions of the agreement, issue a notification to the Authority together with their reasons and the Board deems such reasons acceptable, they may request that a license be granted to another legal entity to be proposed by them in

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<sup>37</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>38</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>39</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.



accordance with the conditions set forth under this Regulation, provided that the proposed legal entity assumes all of the liabilities of the license holder legal entity under its license. A new license shall be granted to the proposed legal entity in continuation of the previous license, subject to the same rights and obligations, provided that it fulfills the obligations under this Regulation.

d.<sup>40</sup> If, upon the finalization of the sale of the generation facility as a result of the execution proceedings, the legal entity purchasing the generation facility subject to sale makes an application and fulfills its obligations within the scope of the application, a new license shall be granted to such legal entity in continuation of the previous license, and such new license shall become effective upon the completion of the transfer procedures and expiry of the previous license.

(4)<sup>41</sup> Under no circumstances can an auxiliary resource in a combined electricity generation facility and a combined renewable electricity generation facility be reclassified as the main resource.

### **Activities subject to license**

**ARTICLE 6 – (1)** In the electricity market, it is mandatory to obtain an appropriate license for the following activities regarding electricity;

- a. Generation,
- b. Transmission,
- c. Distribution,
- ç. Wholesale,
- d. Retail sale,
- e. Import,
- f. Export, and
- g. Market operating.

### **Exemptions**

**ARTICLE 7 – (1)** Generation activities carried out in the following generation facilities are exempt from the obligation to obtain a pre-license and license as well as the obligation to incorporate a company;

a. Emergency generator sets and generation facilities that operate in isolation, without connecting to the transmission or distribution system,

b.<sup>42</sup> Renewable energy resource based generation facilities with installed capacities of maximum one megawatt or up to the installed capacity upper limit designated by a Presidential decree in accordance with Article 14 of the Law.

c. Solid waste facilities of municipalities and electricity generation facilities used for the disposal of sludge from waste water treatment facilities,

ç.<sup>43</sup> Micro-generation facilities as well as cogeneration and trigeneration facilities meeting the efficiency levels designated by the Ministry,

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<sup>40</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>41</sup> Amended pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>42</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>43</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

d. Renewable energy resource based generation facilities consuming the entirety of their generated energy without supplying any of it to the transmission or distribution systems, and the generation and consumption volume of which takes place at the same metering point,

e.<sup>44</sup> Market activities carried out within the scope of electricity storage and demand-side participation subject to the limits, procedures and principles to be designated by the Board through consultation with the Ministry,

f.<sup>45</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 are in the name of the General Directorate of State Hydraulic Works, provided that the installed capacity of these generation facilities is limited to the contract power of the agricultural irrigation facility and, if there are multiple facilities, the total contract power of all of these facilities,

g)<sup>46</sup> Generation facilities based on renewable energy resources, limited to the contract power in the connection agreement.

(2) 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 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. Facilities that fall within the scope of this paragraph can be established in accordance with the terms set out in the Regulation on Principles and Procedures on Execution of Water Utilization Right Agreements for Conduct of Generation Activities in the Electricity Market.

### **CHAPTER THREE**

#### **Basic Provisions Regarding Pre-Licenses and Licenses**

##### **License Types**

**ARTICLE 8** – (1) The following licenses can be obtained from the Authority, based on field of activity:

- a. Generation license.
- b. Organized industrial zone (OIZ) generation license.
- c. Transmission license.
- ç. Market operating license.
- d. Distribution license.
- e. Organized industrial zone (OIZ) distribution license.
- f. Supply license.

##### **Term of pre-licenses and licenses**<sup>47</sup>

**ARTICLE 9** – (1) The term of a pre-license shall be designated by a Board decision, depending on the resource type and installed capacity of the generation facility project subject to the pre-license application, which shall not exceed thirty-six months, excluding events of force majeure. The term of a pre-licenses granted for YEKAs shall be designated by a Board decision in

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<sup>44</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>45</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>46</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>47</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

accordance with the term stipulated in the competition specifications of the work subject to pre-license application, which shall not exceed thirty-six months.

(2)<sup>48</sup> Licenses shall be granted for a minimum of ten years and maximum of forty-nine years, by taking into account the nature of the activity concerned. However, the term of generation licenses granted within the scope of Provisional Article 12 of the Law are limited to the term of the relevant existing agreement. The term of generation licenses granted for YEKAs are limited to the term designated in accordance with the YEKA Regulation.

### **Matters to be included in pre-licenses and licenses**

**ARTICLE 10** – (1) The information to be included in pre-licenses and licenses, and the format thereof shall be designated by a Board decision.

(2)<sup>49</sup> The following information must be included in pre-licenses or licenses;

a. Title and address of the legal entity.

b. Effective date and term of the pre-license or license.

c.<sup>50</sup> Persons who directly or indirectly hold ten percent or more shares in licenses of legal entities whose tariffs are subject to regulation and five percent or more in licenses of public companies, as well as their respective shareholding ratios.

ç. Special provisions regarding the pre-license or license.

(3) The following information shall be included in transmission and distribution licenses;

a. Damages and losses attributable to system operation and that are related to the poor quality or outage of electricity will be indemnified,

b. The services will be provided without discrimination among equal parties as to connection to and use of the system,

c. In distribution licenses, the area of activity where distribution activity will be carried out,

ç. The provisions that apply to charging of service cost.

(4) The supply license of an assigned supply company must also include the provision that such company is obliged to operate as the supplier of last resort in the relevant distribution region registered under its license.

(5) Supply licenses must include provisions on import or export (if applicable); and generation licenses must include provisions on the country where export will be made, company, amount and term (if applicable).

(6) Market operating licenses must include the types of organized wholesale electricity sales market to be operated.

(7)<sup>51</sup> Supply licenses must also include provisions on independent electricity storage facility or facilities, if any; and pre-license or generation licenses must also include provisions on electricity storage unit adjoined to the generation facility, if any, and on electricity storage unit for electricity generation facility with storage.

(8)<sup>52</sup> In the event that there are foreign shareholders among the indirect shareholders of license holder legal entities engaged in activities whose tariff is subject to regulation, the manner in which such shareholders will be annotated to the license shall be determined by Board decision.

### **Effectiveness of decisions regarding pre-license and license transactions**

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<sup>48</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 June 2017 and numbered 30091.

<sup>49</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>50</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>51</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>52</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

**ARTICLE 11** – (1) Pre-licenses and licenses come into effect from the effective date annotated on them and the rights and obligations of the pre-license and license holders under pre-licenses and licenses come into effect from such date, unless stipulated otherwise under this Regulation.

(2) Unless otherwise stated in the decision, decisions on amendment, license renewal, termination and cancellation come into effect on the date of the decision.

## **CHAPTER FOUR Pre-license Transactions**

### **Pre-license application procedure**

**ARTICLE 12** – (1)<sup>53</sup> Legal entities intending to engage in generation activities shall apply to the Authority to obtain a pre-license by way of submitting the required information and documents listed under the "Procedures and Principles regarding Applications related to Pre-License and License Transactions" put into effect by a Board decision, via the EMRA Application System within the application periods specified under this Regulation with respect to the resources whose application periods are specified under this Regulation. Pre-license applications for YEKA shall be made in accordance with the periods specified under the YEKA Regulation.

(2)<sup>54</sup> In order to make pre-license applications electronically; the applicant legal entity shall submit to the Authority in writing the information pertaining to its officer who is authorized to make electronic applications before the Authority. The primary service unit shall introduce the electronic application authorization of such officer on behalf of the said legal entity within five business days from the date of notification to the Authority.

(3) Legal entities which are subject to private law provisions must meet the following criteria in order to apply for a pre-license to operate in the market;

a. Incorporation as a joint stock company or a limited liability partnership in accordance with the provisions of the Turkish Commercial Code no. 6102.

b.<sup>55</sup> In case such legal entity is incorporated as a joint stock company, all of its shares (excluding publicly traded shares in accordance with the capital market legislation) must be in registered form and such company must not issue any shares in bearer form, excluding those shares listed on a stock exchange,

c.<sup>56</sup> Obtaining a notification address via UETS and keeping this address available for notifications,

(4)<sup>57</sup> The legal entity applying for a pre-license as well as the persons below must not be a prohibited within the context of paragraph eight of Article 5 of the Law;

a. Individual(s) or legal entity(ies) that have direct or indirect shareholding in the said legal entity;

b. Chairman and members of the board of directors of the said legal entity or managers of the said legal entity, in case it is a limited liability partnership.

(5) In pre-license applications;

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<sup>53</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>54</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>55</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>56</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>57</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

a.<sup>58</sup> A guarantee in the amount designated by Board decision shall be provided per MW<sub>m</sub> of installed capacity. The upper limit of the guarantee amount calculated according to the foregoing method shall be designated by a Board decision, provided that it does not exceed five percent of the total investment amount envisaged by the Authority for the generation facility. If the said guarantee is provided as a bank letter of guarantee, it must be submitted to the Authority within five business days from the application date. The amount of bank letter of guarantee to be submitted to the Authority may also comprise of bank letters of guarantee obtained from multiple banks.

b. Company's articles of association which stipulates that the minimum capital of the company has been increased to five percent of the total investment amount envisaged by the Authority for the generation facility, and to one percent in terms of pre-license applications for establishing a generation facility based on nuclear energy or domestic coal, shall be submitted.

c. Document evidencing that the pre-license fee has been deposited to the bank account of the Authority. Only ten percent of the pre-license fee shall be collected from legal entities that apply for a pre-license to establish a generation facility based on domestic natural resources and renewable energy resources.

ç. The articles of association of the applicant legal entity shall include the following:

1)<sup>59</sup> In case such legal entity is incorporated as a joint stock company, all of its shares (excluding publicly traded shares in accordance with the capital market legislation) must be in registered form and such company must not issue any shares in bearer form, excluding those shares listed on a stock exchange,

2) The provision of this Regulation stipulating that no amendments may be made to the shareholding structure of the company within the pre-license period and that the approval of the Authority shall be obtained for any amendments to be made to the articles of association regarding share capital reduction.

d.<sup>60</sup> The decision which is required to be obtained under the Environmental Impact Assessment Regulation published in the Official Gazette dated 25/11/2014 and numbered 29186 shall be submitted in pre-license applications, excluding applications based on wind, solar, hydraulic, geothermal, biomass or domestic mines.

e.<sup>61</sup> In pre-license applications for combined electricity generation facilities and combined renewable electricity generation facilities, the installed capacities of the main resource and auxiliary resources shall be added up to be evaluated together based on the main resource in respect of the liabilities set forth under sub-paragraphs (a), (b) and (c) of this article.

f.<sup>62</sup> In pre-license applications within the scope of electricity generation facility with storage, the installed mechanical capacity based on wind or solar energy and the fees corresponding to the capacity of the electricity storage unit shall be aggregated and evaluated together in determining the obligations under sub-paragraphs (a) and (b) of this paragraph.

(6)<sup>63</sup> The following documents must be submitted in pre-license applications to establish a generation facility to generate electricity from domestic natural resources such as domestic mines, geothermal, wind, solar energy and hydraulic resources:

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<sup>58</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>59</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>60</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>61</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>62</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>63</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

a. In pre-license applications based on domestic mines and geothermal, document evidencing that the right to utilize the energy resource or other property rights have been duly established, or that the authorized individuals or legal entities have undertaken to acquire such rights.

b. As for resources based on wind or solar energy, if the ownership of the site within on the generation facility will be established belongs to the applicant legal entity, document evidencing ownership of the site,

c.<sup>64</sup> In pre-license applications based on hydraulic resources, the Water Utilization Rights Agreement executed with DSİ or document evidencing entitlement to execute a Water Utilization Right Agreement, and the opinion of appropriateness of DSİ for units based on auxiliary resources.

(7)<sup>65</sup> TEİAŞ shall, within the framework of Article 23 of the Law, notify the Ministry and the Authority and announce on its website a report on the regional generation facility capacities that can be connected to their systems based on connection point and/or on a regional basis for the following five years and for the following ten years with the exception of YEKA applications, until October 1 of each year. In the said report, the capacity allocated to generation facilities based on wind or solar energy shall be indicated separately. Accordingly, among the total connectable capacity notified by TEİAŞ to the Authority, the following capacities shall be designated by Board decision:

a. Allocation of connectable capacity based on wind or solar energy to pre-license applications to be made in order to establish wind or solar energy based generation facilities, electrical capacity increase requests made by generation license holders based on wind or solar energy, applications to establish electricity generation facilities with multiple resources and generation facility applications to be connected to the system at transmission level within the scope of sub-paragraph (h) of the first paragraph of Article 5 of the Unlicensed Electricity Generation in the Electricity Market Regulation published in the Official Gazette dated 12/5/2019 and numbered 30772,

b. The capacity to be allocated to pre-license applications within the scope of electricity generation facility with storage and generation license amendment applications within the scope of electricity generation facility with storage from the connectable capacity that fall outside of the scope of sub-paragraph (a),

The date for receipt of applications that fall within the scope of this paragraph shall be designated by Board decision. The capacity to be designated for electricity generation facilities with multiple resources specified under sub-paragraph (a) of this paragraph shall not apply to projects or facilities with wind or solar as its main resource and to projects or facilities where the auxiliary resource is not wind or solar.

(8) The site license to be obtained from the relevant authority must be submitted to the Authority in pre-license applications to establish a nuclear energy based generation facility.

(9)<sup>66</sup> The following criteria must be met with respect to the minimum share capital calculation to be made pursuant to sub-paragraph (b) of the fifth paragraph:

a. The share capital of the legal entity applying for multiple pre-licenses or licenses must not be less than the sum of the required share capital amounts envisaged for each such pre-license or license application.

b. In the event that a legal entity holding a license or pre-license applies for a new pre-license or license, the share capital of such company shall not be less than the share capital amount

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<sup>64</sup> Amended pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>65</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>66</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

envisaged for the new application and the sum of the share capital amounts envisaged by the Authority for its existing license and pre-licenses for generation facilities regarding which provisional acceptance has not taken place.

(10)<sup>67</sup> None of the sub-paragraphs of the fifth paragraph of this article excluding sub-paragraph (c), as well as the ninth paragraph of this article, shall not apply to public legal entities.

(11)<sup>68</sup> Except for YEKA applications and applications to be made for electricity generation facilities with storage, the obligations set forth under sub-paragraph (ç) of the fifth paragraph for pre-license applications based on wind and solar energy and the obligations regarding the submission to the Authority of the information and documents designated by a Board decision shall be fulfilled within the ninety days to be provided upon the actual or deemed acceptance and undertaking by the said legal entity of the connection opinion in accordance with sub-paragraph (c) of the second paragraph of Article 15.

(12)<sup>69</sup> If legal entities applying for a pre-license wish to add storage units adjoined to the generation facility to their pre-licenses, they shall apply to the Authority as specified in the first paragraph. If an application is made within this scope, the provisions of the second paragraph of Article 15 shall be applied regarding the connection of said electricity storage unit to the system and system usage. In the pre-license to be issued if such request is approved by the Board, information on said electricity storage unit shall also be included. Capital adequacy and collateral requirements shall not be sought for units that falls within this scope.

(13)<sup>70</sup> In pre-license applications made for electricity generation plant projects where pyrolytic oil and pyrolytic gas, which are by-products resulting from the processing of waste tires, are planned to be used as fuel, the fuel in question shall be generated in the relevant electricity generation facility and no other resources shall be used.

(14)<sup>71</sup> In addition to the requirements specified under this Article, the following requirements shall be sought for pre-license applications within the scope of electricity generation facility with storage:

a) The ratio of the installed electrical capacity of the electricity generation facility based on wind or solar energy to the installed capacity of the electricity storage unit undertaken to be established shall not exceed 1,

b) The applications shall have a minimum installed capacity of 20 MWe for wind energy based applications and 10 MWe for solar energy based applications and shall not exceed 250 MWe,

c) The ratio of the undertaken electricity storage capacity to the installed capacity of the electricity storage unit in question shall not be less than 1,

ç) The undertaken electricity storage unit shall be located within the boundaries of the power plant site subject to the application.

(15)<sup>72</sup> The installed mechanical capacity requested in pre-license applications cannot exceed twice the installed electrical capacity.

## **Receipt and review of pre-license applications**

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<sup>67</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>68</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>69</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>70</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>71</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>72</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

**ARTICLE 13 – (1)**<sup>73</sup> The examination on whether the information and documents requested from legal entities during application are submitted properly shall be completed within twenty business days following the date of their submission to the Authority. Deficiencies in the pre-license applications identified as not complying with the applicable legislation shall be requested to be corrected within fifteen business days from the date of the notification, and the relevant legal entity shall be notified that, if the said deficiencies are not corrected, the application will be deemed not made and the application documents submitted to the Authority will be returned. In the event that the deficiencies are not corrected within this period, or the Authority is notified that the application has been withdrawn, the primary service unit shall consider such application not made, and the application documents submitted to the Authority shall be returned if requested by the applicant. In this case, the pre-license fee that may have been deposited shall be refunded, if requested by the applicant.

(2)<sup>74</sup> Applications identified as complete according to the pre-license application principles shall be considered to be under review as of the application date or as of the date of submission of information and documents to correct the deficiencies identified, as explained in the first paragraph of this article.

(3)<sup>75</sup> Information on the pre-license applications that are under review shall be announced on the Authority's website. A written objection can be made to the announced application by third parties within ten business days and in terms of violation of personal rights only. No announcement shall be made for the sites where the ownership of the entirety of the project site subject to the application belongs to the relevant legal entity as well as for the facility sites that are owned by the relevant municipality regarding projects where municipal wastes will be used as resource and which is allocated as the power plant site to the legal entity who has the right to use the municipal wastes. As for electricity generation facilities with storage, an announcement shall be made according to the procedure specified in the ninth paragraph of Article 15.

(4)<sup>76</sup> The announcement to be made under the third paragraph of this article shall include the following information regarding the site under application: province, district, village and/or neighborhood, block and/or parcel and/or plot number on a 1/25,000 scale and/or coordinate information based on UTM-ED50 (6°) system.

(5)<sup>77</sup> Pre-license applications for YEKA shall be received and reviewed according to the following procedure:

a. The application shall be made to the Authority within forty-five days as set forth under the YEKA Regulation.

b. The examination on whether the information and documents requested during the application are submitted properly shall be completed within twenty business days following the date of their submission to the Authority.

c. The deficiencies in the pre-license applications identified as not complying with the applicable legislation shall be requested to be corrected within fifteen business days from the date of the notification and the applicant shall be notified that, if the said deficiencies are not corrected, the application will be deemed not made and the application documents submitted to the Authority will be returned. In the event that the deficiencies are not corrected within this period or the Authority is notified that the application has been withdrawn, the application will be considered

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<sup>73</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>74</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>75</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>76</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>77</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.



not made by a Board decision, and the application documents submitted to the Authority shall be returned. The General Directorate of Energy Affairs shall be notified of such Board decision as well. In this case, any pre-license fee that had been deposited shall be refunded.

ç. Applications identified as complete shall be considered to be under review as of the application date or as of the date of submission of information and documents evidencing that the deficiencies identified had been corrected.

(6)<sup>78</sup> In accordance with the YEKA Regulation, the General Directorate of Energy Affairs shall be notified if no pre-license application is made for YEKA within forty-five days from the date of notification made by the General Directorate of Energy Affairs to the Authority.

### **Pre-emptive right relating to multiple applications concerning the same site**

**ARTICLE 14** – (1) After the expiry of the term of the announcement made regarding a pre-license application, the applications for another pre-license in the market, and pre-license or license applications as to storage activity in the natural gas market or as to refinery and/or storage activity in the petroleum market concerning the site subject to the announcement above shall be returned or refused.

(2) Excluding cases where there is a specific provision in the legislation regarding evaluation of multiple applications to operate within the same site, in case there is an application for another pre-license in the market or for a refinery and/or storage license in the petroleum market or for a storage license in the natural gas market to operate at the same site that is made within the period starting from the date of the relevant pre-license application until the announcement made in accordance with the third paragraph of Article 13 and/or within ten business days from the announcement, the evaluation shall be made in accordance with the following principles:

a. Pre-license or license applications made in the market or in the petroleum or natural gas markets to operate at a site which is allocated or envisaged to be allocated pursuant to an international agreement or a site subject to studies conducted by the Ministry as a nuclear energy-based generation facility site in the market, shall be refused at any stage.

b. In case the area subject to the pre-license application announced within the framework of the third paragraph of Article 13 is not a site that has been allocated or envisaged to be allocated in accordance with an international agreement, or that such site is not subject to studies by the Ministry as a nuclear energy-based generation facility site, however there are other pre-license application(s) to engage in generation activities in the market, or application(s) for refinery and/or storage licenses in the petroleum market, or application(s) for a storage license in the natural gas market to operate within the site subject to the announcement of the pre-license application, the application that will proceed with the licensing process on the site subject to the announcement shall be designated by a Board decision according to the following procedures and principles:

1) Priority shall be given to the following pre-license and license applications in the following order: underground natural gas storage in the natural gas market, pre-licenses based on resources or fuel other than natural gas in the market, storage to be made in a liquefied natural gas facility in the natural gas market, refinery license in the petroleum market, pre-license based on natural gas in the market and storage license in the petroleum market.

2) Applications other than the pre-license or license application(s) that are given priority within the scope of sub-paragraph (1) above shall be returned or refused.

c. If a Board decision is made as to conduct of generation activities in the market based resources or fuel other than natural gas, on the site subject to the pre-license application announced

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<sup>78</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

in accordance with the third paragraph of Article 13, and if there are multiple pre-license applications to conduct generation activity in the market based on resources or fuel other than natural gas, the application that will proceed with the licensing process on the site subject to the announcement shall be designated by a Board decision according to the following procedures and principles:

1) Priority shall be given to applications considering the resource or fuel type of the generation facility subject to the pre-license applications based on domestic coal, imported coal and renewable energy resources, in that order.

2) If there are multiple applications based on different renewable energy resources in the market within the scope of sub-paragraph (1) above, applications based on geothermal, hydraulic, wind and solar energy resources are given priority, in that order, in determining the application to proceed with the licensing process.

3)<sup>79</sup> Applications other than the application that ranks first in terms of priority further to sub-paragraph (2) above shall be returned or refused.

(3)<sup>80</sup> An unlicensed generation application cannot be made with respect to a generation facility site subject to a pre-license or generation license application, and if such application is made, the relevant application shall be returned.

(4)<sup>81</sup> After a generation license is obtained for wind energy based generation facilities, unlicensed generation facility applications to be made for the site subject to the generation license by the land owner or usage right holder of such site may be accepted, provided that the outcome of technical assessment of the General Directorate of Energy Affairs is positive and the said application does not affect the existing generation license or other licensed generation facilities. Otherwise, such application shall be refused at any stage of the application process.

### **Evaluation of pre-license applications**

**ARTICLE 15** – (1) Applications identified as complete according to Article 13 shall be put under evaluation.

(2) As for pre-license applications under evaluation;

a. The Authority shall obtain the opinion of TEİAŞ and/or the distribution license holder legal entity within the distribution region where the generation facility is located, regarding the connection to the transmission and/or distribution system of the generation facility to be established as well as its use of the system.

b. TEİAŞ and/or the relevant distribution company shall submit to the Authority, within forty-five days from the date of notification, its opinion pursuant to the scope of the applicable legislation regarding the transformer center that the generation facility subject to the application is requested to be connected to and the connection capacity of the same.

c. The opinions submitted to the Authority shall be notified to the applicant within ten business days. If the applicant accepts the opinion(s) regarding connection and use of the system, it shall submit to the Authority the document indicating that it accepts and undertakes the said opinions, or otherwise, its objection to such opinion(s) together with its reasons, within ten business

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<sup>79</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>80</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>81</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

days. Otherwise, the applicant shall be deemed to have accepted and undertaken to comply with the said opinion(s) regarding connection and system use.

(3)<sup>82</sup>Following the evaluation of the objections in terms of personal rights, pre-license applications to establish a generation facility based on wind or solar energy, other than the applications within the scope of electricity generation facility with storage, shall be evaluated as follows:

a. Amongst the connection points or connection areas announced for each facility, only one connection point or connection area may be preferred within the framework of the applicable legislation by legal entities applying for a pre-license. The installed capacity of the application cannot exceed the capacity announced in the preferred connection point and/or connection area. As for pre-license applications based on wind and solar energy, if the power plant site is located within multiple connection areas, it shall be considered to be located on the connection area where the power plant site occupies the largest space.

b.<sup>83</sup>The requested information and documents for the technical assessment of pre-license applications within the framework of the applicable legislation shall be submitted to the General Directorate of Energy Affairs. The General Directorate of Energy Affairs shall complete the technical assessment and notify the Authority. In this context, pre-license applications whose technical assessment are deemed appropriate shall be submitted to TEİAŞ and/or the relevant distribution company for the preparation of connection opinions.

c. The connection point and voltage level of the generation facility subject to the application shall be determined by TEİAŞ and/or the distribution license holder legal entity.

ç. If there are more applications than the announced capacity to connect to the same connection point and/or the same connection area and/or if there are multiple applications concerning the same site, a competition shall be held by TEİAŞ to select the applications to connect to the system within the announced capacity. TEİAŞ shall prepare connection opinions regarding the applications that are awarded the connection capacity or refer them to the relevant distribution company to prepare a connection opinion together with its own opinion.

d.<sup>84</sup> TEİAŞ or the relevant distribution company shall notify the Authority of their connection opinions and the pre-license procedures regarding the said application shall be carried on by the Authority in accordance with the provisions of this Regulation.

(4) Any additional information and documents necessary to conclude the evaluation process may be requested from the applicant and persons authorized to represent the applicant legal entity may be called in for direct interviews.

(5) The fact that a pre-license application is taken into evaluation does not mean that the applicant shall be entitled to obtain a pre-license.

(6) Pre-license applications for YEKA shall be evaluated according to the following procedure;

a. Applications shall be evaluated within the scope of Article 13. The fact that a pre-license application is taken into evaluation does not mean that the applicant shall be entitled to obtain a pre-license.

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<sup>82</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>83</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>84</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

b.<sup>85</sup> Any additional information and documents necessary to conclude the evaluation process may be requested from the applicant or the relevant institutions and authorities and/or persons authorized to represent the applicant legal entity may be called in for direct interviews.

c.<sup>86</sup> The evaluation shall be completed within three months. Periods under sub-paragraph (b) above shall not be taken into account in the calculation of the said three-month period.

(7)<sup>87</sup> All provisions of this article except for the provisions on competition shall apply to auxiliary resources of the pre-license applications for combined electricity generation facilities and the combined renewable electricity generation facilities.

(8)<sup>88</sup> If an electricity storage unit adjoined to the generation facility is also intended to be established in the electricity generation facility, including electricity generation facilities with storage, planned to be established within the scope of the pre-license application, the opinion of TEİAŞ shall be requested regarding the compliance of the electricity storage unit with the required technical criteria.

(9)<sup>89</sup> Pre-license applications for electricity generation facility with storage shall be reviewed according to the following procedure:

a) Applications shall be processed within the scope of Article 13.

b) The applications under review shall be sent to TEİAŞ to obtain connection opinion according to the order in which they are put under review. TEİAŞ shall issue connection opinion within the scope of Article 23 of the Law in the order they are sent by the Authority, until the capacity of the connection area is reached. The first applicant legal entity among the listed applications who exceeds the capacity of the connection area shall be requested to revise the installed project capacity to match the available remaining capacity. If the capacity calculated as a result of the review made within the scope of this paragraph falls below the minimum limits specified in the fourteenth paragraph of Article 12, TEİAŞ shall give a negative opinion. Sub-paragraph (c) of the second paragraph shall apply for the connection opinions issued by TEİAŞ.

c) Pre-license applications for which a positive connection opinion is issued by TEİAŞ shall be announced on the website of the Authority. The announced application may be objected to in writing by third parties within ten business days and in terms of violation of personal rights only. Pre-license applications for which a positive connection opinion is issued shall be sent to the General Directorate of Energy Affairs for technical assessment in accordance with the order notified to TEİAŞ by the Authority. The General Directorate of Energy Affairs shall complete the technical assessment in accordance with the order notified by the Authority and notify the Authority accordingly. If the General Directorate of Energy Affairs determines that there is an intersection or overlap in the power plant sites, the Authority shall request that the power plant sites be revised in the subsequent application(s). As a result of the assessment made within this scope, the application(s) whose sites are amended shall be re-sent to the General Directorate of Energy Affairs for technical assessment.

### **Finalization of pre-license applications**

**ARTICLE 16<sup>90</sup>** – (1) The evaluation made by the Authority shall be submitted to the Board and the pre-license application shall be concluded by a Board decision.

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<sup>85</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 May 2020 and numbered 31127.

<sup>86</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>87</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>88</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>89</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>90</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

(2) The legal entity that fulfills the obligations specified in this Regulation shall be granted a pre-license by a Board decision, and information regarding the trade name of the pre-license holder legal entity as well as the term of its pre-license and the site on which the generation facility subject to the pre-license is located shall be announced on the Authority's website.

(3) Objections in terms of personal rights related to the pre-license application shall be concluded by a Board decision and the Board may decide to refuse the pre-license application if deemed the objection is found to be justified.

(4) Pre-license applications shall be refused by a Board decision in the following cases:

a.<sup>91</sup> Applications for which TEİAŞ or the relevant distribution company has not given a positive opinion that the connection would be suitable and applications that do not accept the remaining available capacity as a result of the review made within the scope of the ninth paragraph of Article 15.

b. Where applications based on wind and solar energy are concerned, if the land owner of a site on which the generation facility will be established makes an application, other applications concerning the same site;

c. Applications for connection to the transmission and/or distribution system and the use of the system by the generation facility to be established under the pre-license application, for which a suitable connection opinion cannot be issued within the framework of the applicable legislation and/or the establishment of a special direct line is not preferred by the applicant legal entity.

ç.<sup>92</sup> Applications technical assessment of which are deemed inappropriate by the General Directorate of Energy Affairs for facilities the main resource or one of the auxiliary resources of which is wind, solar, biomass or geothermal and electricity generation facilities with storage.

d.<sup>93</sup> Except for applications to be made for YEKA and applications to be made within the scope of electricity generation facility with storage, applications that are reported by the General Directorate of Energy Affairs as their measurement station being located outside the site where the generation facility will be established, in accordance with the coordinates provided in the information form relating to the generation facility submitted along with the pre-license application.

e.<sup>94</sup> Applications regarding which establishing a generation facility subject to a pre-license application on the relevant site is found to be impossible.

f.<sup>95</sup> Applications of legal entities that withdraw their pre-license applications even though they won the competition within the scope of the Competition Regulation regarding Pre-license Applications to Establish a Generation Facility Based on Wind and Solar Energy, published in the Official Gazette dated 6/12/2013 and numbered 28843.

g.<sup>96</sup> Applications where the information and documents requested from the legal entity applying for a pre-license are not submitted to the Authority in due time, or where the submitted documents are found to not comply with the requirements set forth under the applicable legislation.

(5)<sup>97</sup> Pre-license applications shall be rejected by the relevant primary service unit in the following cases:

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<sup>91</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>92</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>93</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>94</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>95</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>96</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>97</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

a. Applications where the Authority is notified of the withdrawal of the application before a decision is made regarding the grant of a pre-license,

b. Applications where the Authority is notified that they did not win the competition within the scope of the Competition Regulation regarding Pre-license Applications to Establish a Generation Facility Based on Wind and Solar Energy.

### **The actions and transactions to be completed within the pre-license period**

**ARTICLE 17<sup>98</sup>** – (1) A pre-license holder legal entity shall complete the following actions and transactions within the pre-license period in order to start the investment process for the generation facility that is subject to the pre-license:

a.<sup>99</sup> In the event that the site on which the generation facility will be established is not owned by the pre-license holder legal entity, the acquisition of ownership or establishment of a usage right of the site in question.

b.<sup>100</sup> Finalization of the master and implementation zoning plan approvals regarding the generation facility to be established.

c.<sup>101</sup> Obtaining the preliminary project or final project approval for the generation facility

ç. Making an application to TEİAŞ or the relevant distribution company for the connection agreement.

d. Obtaining Technical Interference Permit for generation facilities based on wind energy that is subject to pre-license.

e.<sup>102</sup> Obtaining the decision required pursuant to the Environmental Impact Assessment Regulation for applications based on wind, solar, hydraulic, geothermal, biomass or domestic mines.

f. Submission of the construction permit regarding the generation facility or a document that substitutes the said permit.

g. The following actions shall be completed regarding generation facilities subject to a pre-license:

1)<sup>103</sup> Agreement regarding resource utilization right for generation facilities based on domestic mines and generation facilities based on geothermal resources,

2)<sup>104</sup> Water Utilization Right Agreement executed with DSİ for generation facilities based on hydraulic resources, lease agreement executed with DSİ for floating GESs or solar energy units to be installed on the canal surfaces of facilities based on hydroelectric resources or in the reservoir area between the maximum water level and operating elevation,

3)<sup>105</sup> The RES (wind power based electricity generation units) or GES Contribution Fee agreement executed with TEİAŞ for obligated wind or solar power based generation facilities,

ğ.<sup>106</sup> For pre-licenses granted for generation facilities to be established within the scope of a YEKA, issuance of a letter of conformity regarding grant of a generation license by the General

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<sup>98</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>99</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>100</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>101</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>102</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>103</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>104</sup> Amended pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>105</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>106</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

Directorate of Energy Affairs, evidencing that the conditions specified under the YEKA Regulation are met.

h.<sup>107</sup> For pre-licenses granted for electricity generation facilities to be established within the scope of YEKA, issuance of a document by the Ministry or institutions/organizations authorized by the Ministry evidencing that the conditions specified under the Regulation on Renewable Energy Resource Areas published in the Official Gazette dated 9/10/2016 and numbered 29852 are met with respect to components to be used in the electricity generation facilities to be established.

1.<sup>108</sup> For applications based on wind energy, obtaining affirmative opinions within the scope of the Military Forbidden Zones and Security Zones Regulation and military shooting areas and exercise zones put into effect by the Council of Ministers' Decision dated 17/1/1983 and numbered 83/5949.

(2) Pre-license holder legal entities shall apply to the relevant institution as outlined below:

a.<sup>109</sup> Within ninety days from the notification of the Board decision on the grant of a pre-license, to obtain the decision required under the Environmental Impact Assessment Regulation for generation facilities based on wind, solar, hydraulic, geothermal, biomass or domestic mine;

b. Within one hundred and eighty days from the notification of the Board decision on the grant of a pre-license, to obtain a Technical Interference Permit for wind power based generation facilities.

(3) As for nuclear energy based generation facilities, following the grant of a pre-license, the actions and transactions to be submitted within the scope of the first paragraph, excluding those specified under sub-paragraph (ç) of the first paragraph, may be submitted to the Authority within the period to be designated by the Board. Provided that the obligations arising from other applicable legislation are fulfilled, the construction of structures that are not directly related to the generation facility may commence before a generation license is obtained for the said generation facilities.

(4)<sup>110</sup> Without prejudice to obligations arising under other applicable legislation, the obligation set forth under sub-paragraph (f) of the first paragraph shall not apply to generation facilities based on hydraulic resources.

(5)<sup>111</sup> Pre-license holder legal entities that file an application to establish a multi-resource electricity generation facility and electricity storage unit adjoined to the electricity generation facility, and pre-license holder legal entities applying within the scope of electricity generation facility with storage shall fulfill their obligations set out under the first and second paragraphs. The said obligations may be performed either separately for each resource or jointly for all resources.

### **Amendment of Pre-licenses**

**ARTICLE 18**<sup>112</sup> – (1) Pre-licenses may be amended in the following cases;

a. The request of the pre-license holder and the approval of such request.

b. Legislative amendments and implementations of the legislation requiring amendment of matters annotated to the pre-license.

(2) The following procedures shall be followed regarding pre-license amendment applications:

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<sup>107</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>108</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>109</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>110</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>111</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>112</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

a. The amendment application shall be made by way of submission of the required documents under the "Procedures and Principles regarding Applications related to Pre-license and License Transactions" to the Authority via the EMRA Application System.

b. The examination on whether the documents requested from legal entities during the amendment application are duly submitted shall be completed within ten business days following the date of their submission to the Authority. The deficiencies identified in the pre-license amendment applications shall be requested to be corrected within fifteen business days from the date of the notification to the relevant entity, and the legal entity shall be notified that the application will be deemed not made, failing to correct the said deficiencies. Information and documents submitted in this context shall be reviewed within ten business days. In the event the primary service unit determines that the deficiencies are not corrected or the Authority is notified that the application has been withdrawn, the application shall be considered not made, and this shall be notified to the relevant legal entity. The documents submitted to the Authority during the application shall be returned to the applicant, if the applicant so requests.

c. Applications identified as complete shall be put under review within the framework of this article as from the application date or the date of submission of information and documents on correction of deficiencies to the Authority as explained in the first paragraph of this article.

ç.<sup>113</sup> As for pre-licenses issued for YEKAs, the designation outlined under sub-paragraph (b) shall be made by a Board decision.

(3)<sup>114</sup> The term of a pre-license can be amended in response to force majeure events as specified under Article 35. As for pre-licenses granted for YEKA, in case the obligations specified within the framework of Allocation in Exchange for Domestic Manufacturing or Allocation in Exchange for Use of Domestic Goods pursuant to the YEKA Regulation cannot be timely fulfilled, if the defense or explanation and remedial measures proposal submitted to the General Directorate of Energy Affairs regarding the delays in the work program are deemed sufficient, the term of the pre-license may be extended for up to thirty-six months, if approved by the Board. For delays in the work program that are longer than thirty-six months, the pre-license period can only be extended if it is determined by the Board that the delays are attributable to events of force majeure, and subject to the affirmative opinion of the Ministry.

(4)<sup>115</sup> In case it is decided that the pre-license be amended, the obligations in connection with the amendment shall be notified to the relevant legal entity, together with the specified terms within which such obligations shall be fulfilled. If the said obligations are not timely fulfilled, except for events of force majeure, the amendment application shall be deemed refused.

(5)<sup>116</sup> In case a pre-license amendment application is made by way of a change to the mechanical capacity or installed electrical capacity of a generation facility subject to pre-license, the second paragraph of Article 15 shall apply regarding the connection of the generation facility to the transmission and/or distribution system and the use of the system. If the said application is approved by the Board or the relevant primary service unit, the pre-license may be amended based on the new capacity or installed electrical capacity provided that the following information and documents are submitted to the Authority as outlined below:

a. The information and documents evidencing that the minimum share capital of the company and the guarantee amount revised in accordance with the amount designated by the relevant Board

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<sup>113</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>114</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>115</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>116</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.



decision shall be submitted to the Authority within the period specified in the relevant Board decision or primary service unit's administrative action,

b.<sup>117</sup> The document evidencing that an application has been made to the relevant institutions to obtain the required decision under the Environmental Impact Assessment Regulation shall be submitted to the Authority within forty-five days from the date of notification of the Board decision or the primary service unit's administrative action.

Installed electrical capacity increase cannot be performed for pre-licenses based on renewable energy resources.

(6)<sup>118</sup> As for pre-licenses based on renewable energy resources, mechanical capacity amendments may be approved, provided that:

a. The site specified under the pre-license is not exceeded,

b. The total installed electrical capacity of the facility annotated to the pre-license does not change,

c.<sup>119</sup> The technical assessment conducted by the General Directorate of Energy Affairs for pre-licenses based on wind or solar energy and biomass or geothermal energy is approved, and the pre-licenses based on hydroelectric resources are issued a positive opinion by DSI.

Mechanical capacity can be amended provided that the document evidencing that an application has been made to the relevant institutions to fulfill the obligations set out under subparagraphs (a) and (b) of the fifth paragraph and/or to obtain a Technical Interference Permit for generation facilities based on wind energy is submitted to the Authority within the period specified under the relevant administrative action as from notification of the Board decision or primary service unit transaction regarding approval of the mechanical capacity amendment. Mechanical capacity increases shall not be considered as installed electrical capacity increases. The total amount of mechanical power to be added within the scope of mechanical capacity increase shall not exceed the installed electrical capacity annotated to the license.

(7)<sup>120</sup> If a generation facility site subject to a pre-license is intended to be changed and it is determined that this falls within the scope of events of force majeure or cases deemed appropriate by the Board, necessary amendments can be made in the pre-license, provided that the requested amendment does not violate third party rights, the connection point or connection area does not change, and the approval decision of the General Directorate of State Hydraulic Works is obtained for facilities based on hydroelectric resources, and the technical assessment of the General Directorate of Energy Affairs is positive for facilities based on wind or solar energy. No announcement shall be made for the sites where the ownership of the entirety of the project site subject to the application belongs to the relevant legal entity as well as for the facility sites that are owned by the relevant municipality regarding projects where municipal wastes will be used as resource and which is allocated as the power plant site to the legal entity who has the right to use the municipal wastes.

(8)<sup>121</sup> In case it is approved to amend the unit coordinate and/or power plant area coordinates annotated to a pre-license, the Authority shall amend such pre-license, provided that the decision required to be obtained under the Environmental Impact Assessment Regulation as well as the document evidencing that an application has been made to the relevant institutions for obtaining a

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<sup>117</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>118</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>119</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>120</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>121</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

Technical Interference Permit regarding generation facilities based on wind energy are submitted to the Authority within forty-five days from notification of the Board decision or administrative action of the relevant primary service unit.

(9)<sup>122</sup> The relevant primary service unit concludes the amendment requests and the transactions related to the notification obligations specified in the first and second paragraphs of Article 57 regarding the following;

- a. Amendment of the trade name and corporation type of the pre-license holder legal entity,
- b. Without prejudice to sub-paragraph (ç), amendment of the unit number, unit capacity, unit coordinates, annual electricity generation volume, the province, district, location of the generation facility and the name of the generation facility, provided that the connection point and installed capacity under the special provisions of the pre-license do not change,
- c. Amendment of the notification address under the special provisions of the pre-license,
- ç. Amendments to be made within the scope of amendments to the installed capacity of up to ten percent in total, provided that such volume does not exceed 10 MW,

As for pre-licenses based on wind energy, the unit coordinate amendment to be made under sub-paragraph (b) shall be concluded pursuant to the certificate of conformity issued by the General Directorate of Energy Affairs evidencing that the turbine coordinates in the sites neighboring the facility site are not affected, provided that the Technical Interference Permit certificate is submitted with the application. As for pre-licenses based on wind energy, amendments to unit numbers and unit capacity within the scope of sub-paragraph (b) shall be concluded pursuant to the conformity certificate issued by the General Directorate of Energy Affairs. The provisions of this Regulation regarding share capital and guarantee obligations shall not apply to amendments to be made up to the ratio designated under sub-paragraph (ç). In the event that third parties object to the amendments made within the scope of this paragraph, the said objection and the amendment transaction subject to objection shall be concluded by the Board.

(10) As for amendments to be made per the request of the pre-license holder within the scope of this article, the pre-license amendment transaction shall be carried out by the relevant primary service unit following the amendment decision. If any obligation is specified in the amendment decision, the said obligation shall be submitted to the Authority within thirty days from the date of notification of the amendment decision or within the period specified in the amendment decision. In case the specified obligation is not fulfilled, the request for pre-license amendment shall be deemed to be refused. In case the pre-license amendment application is refused, the relevant legal entity shall be notified of such refusal decision together with its reasons.

(11)<sup>123</sup> Requests for amendment of the following matters annotated to a pre-license issued for YEKA shall be concluded by Board decision;

- a. Unit coordinates, unit number and unit capacity,
- b. Annual electricity energy generation volume,
- c. Amendments to the trade name and corporation type of the pre-license holder legal entity
- ç.<sup>124</sup> As for pre-licenses based on wind energy, the unit coordinate amendment to be made under sub-paragraph (a) shall be concluded pursuant to the certificate of conformity issued by the General Directorate of Energy Affairs evidencing that the turbine coordinates in the sites neighboring the facility site are not affected, provided that the Technical Interference Permit certificate is submitted with the application. As for pre-licenses based on wind energy, amendments

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<sup>122</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>123</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>124</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

to unit numbers and unit capacity within the scope of sub-paragraph (a) shall be concluded pursuant to the conformity certificate issued by the General Directorate of Energy Affairs. The fifth and seventh paragraphs of this article as well as the provisions of the ninth paragraph of this article that are regulated separately under this paragraph shall not apply to pre-licenses issued for YEKA.

(12)<sup>125</sup> An amendment application to transform a generation facility under a pre-license into a multi-resource electricity generation facility may be approved on the following conditions;

a. The site annotated to the pre-license is not exceeded,  
b. The total installed electrical capacity of the facility annotated to the pre-license does not change,

c. The current connection type, connection point and voltage level annotated to the pre-license does not change,

ç.<sup>126</sup> As for pre-licenses whose auxiliary resource is based on wind or solar energy and biomass or geothermal energy, the technical assessment made by the General Directorate of Energy Affairs regarding the auxiliary resources is suitable,

d. As for pre-licenses based on hydroelectric resources, an appropriateness decision is provided by the DSİ.

The pre-license shall be amended provided that the obligations specified under the fifth paragraph are fulfilled, and documents evidencing that an application has been made to the relevant authority to obtain a Technical Interference Permit certificate for wind energy based generation facilities as well document evidencing that an application has been made for execution of a lease agreement with DSİ for floating GESs or solar energy units to be installed on the canal surfaces of or facilities based on hydroelectric resources or in the reservoir area between the maximum water level and operating elevation are submitted to the Authority within the period specified in the Board decision, as from the date of notification of the Board decision on approval.

(13)<sup>127</sup> The amendment application filed within the scope of adding an adjoined electricity storage unit to the generation facility subject to pre-license can be approved provided that the following conditions are met;

a) The site annotated to the pre-license is not exceeded,  
b) The installed electrical and/or mechanical capacity annotated to the pre-license do not change,

c) The existing connection type, connection point and voltage level annotated to the pre-license do not change,

ç) An affirmative opinion is obtained from the relevant network operator regarding the connection of said electricity storage unit to the system and the system usage in accordance with the second paragraph of Article 15,

d)<sup>128</sup> An affirmative opinion is obtained from TEİAŞ regarding the compliance of the electricity storage unit with the required technical criteria.

Pre-license amendment shall be made, provided that the document certifying that applications have been filed with the relevant authorities for issuance of the decision required to be obtained under the Environmental Impact Assessment Regulation is submitted to the Authority within forty-five days from the date of notification of the Board's approval decision.

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<sup>125</sup> Amended pursuant to the Regulation published in the Official Gazette dated 28 July 2020 and numbered 31199.

<sup>126</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>127</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>128</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

### **Termination and cancellation of pre-licenses**

**ARTICLE 19 – (1)**<sup>129</sup> In case the pre-license holder legal entity wishes to terminate its pre-license, the original pre-license must be submitted to the Authority.

(2) A pre-license automatically terminates:

- a. In case of expiry of the term of the pre-license, if the term of the pre-license is not extended,
- b. In case of request of the pre-license holder legal entity or insolvency of the same,
- c. In case the pre-license holder legal entity obtains a generation license.

(3)<sup>130</sup> A pre-license automatically terminates from the date that the termination request is made to the Authority. The Authority shall notify the relevant legal entities, institutions and organizations of the termination of the pre-license in writing.

(4) A pre-license shall be cancelled if;

a. Excluding the exceptions specified under this Regulation, there is a direct or indirect change in the shareholding structure of the pre-license holder legal entity other than by reason of inheritance or insolvency, or an act or transaction is conducted which would result in the transfer of shares, such as share transfer, merger or spin-off, prior to obtaining a license,

b. The legal entity fails to fulfill the obligations specified by the Authority, within the scope of the first and second paragraphs of Article 16 of the Law.

(5)<sup>131</sup> A pre-license granted for YEKA terminates upon the expiry of its term (if its term is not extended), and a pre-license granted for YEKA terminates automatically as per the request of the pre-license legal entity or upon finalization of its insolvency process, and if the pre-license holder legal entity obtains a generation license. The said pre-licenses shall be terminated by a Board decision upon the request of the pre-license holder company, if a YEKA Utilization Right Agreement signed pursuant to the YEKA Regulation is terminated and the guarantee thereunder is returned as the parties to such agreement agree that the delays to their work program caused by events of force majeure has lasted longer than one year or that such event of force majeure cannot be eliminated within one year.

(6) Pre-licenses granted for YEKA shall be cancelled if;

a. Without prejudice to the exceptions specified under this Regulation, there is a direct or indirect change in the shareholding structure of the pre-license holder legal entity other than by reason of inheritance or insolvency, or an act or transaction is conducted which would result in the transfer of the shares, such as share transfer, merger or spin-off, prior to obtaining a license, ,

b.<sup>132</sup> In case of failure to timely fulfill the obligations specified under the Allocation in Exchange for Domestic Manufacturing or Allocation in Exchange for Use of Domestic Goods as designated by the Authority; the defense or explanations submitted to the General Directorate of Energy Affairs are not considered within the scope of force majeure by the Board; in the event that the defense or explanation and precaution proposals submitted to the General Directorate of Energy Affairs regarding the delays in the work program are not deemed sufficient and the YEKA Utilization Right Agreement is terminated as a result.

c. The Ministry informs the Authority that the factory, an obligation of the pre-license holder legal entity within the scope of the YEKA Regulation, has not commenced its operations within the specified period,

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<sup>129</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>130</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>131</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>132</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

ç. The Ministry informs the Authority that the pre-license holder legal entity could not fulfill its undertakings under the YEKA Utilization Right Agreement on time,

d. The documents specified in sub-paragraphs (b) and (c) of the seventh paragraph of Article 12 of the YEKA Regulation could not be submitted to the Ministry on time and/or the YEKA Utilization Right Agreement is terminated and the Authority is notified accordingly, as the submitted documents cannot meet the values specified and undertaken in the Specifications,

e. Determination of fraudulent circumvention of law or false statements being made in connection with the requests made and transactions conducted within the scope of this Regulation.

## **CHAPTER FIVE**

### **License Transactions**

#### **License Application**

**ARTICLE 20** – (1)<sup>133</sup> Legal entities intending to operate in the market shall apply to the Authority to obtain a license by way of submitting the required information and documents set forth under the “Procedures and Principles regarding Applications related to Pre-license and License Transactions” put into effect by a Board decision, via the EMRA Application System.

(2)<sup>134</sup> In order to make license applications electronically; the applicant legal entity shall submit to the Authority in writing the information pertaining to its officer who is authorized to make electronic applications before the Authority. The primary service unit shall introduce the electronic application authorization of such officer on behalf of the said legal entity within five business days from the date of notification to the Authority.

(3) Legal entities which are subject to private law provisions must meet the following criteria in order to apply for a license to operate in the market;

a. being incorporated as a joint stock corporation or a limited liability company in accordance with the provisions of the Turkish Commercial Code no. 6102.

b.<sup>135</sup> In case such legal entity is incorporated as a joint stock corporation, all of its shares (excluding publicly traded shares in accordance with capital markets legislation) must be in registered form, and such company must not issue any shares in bearer form, excluding those shares issued to be publicly traded,

c.<sup>136</sup> The legal entity applying for a license as well as the persons below must not be a black listed persons within the context of paragraph eight of Article 5 of the Law;

1) Individual(s) or legal entity(ies) that have direct or indirect shareholding in the said legal entity,

2) Chairman and members of the board of directors of the said legal entity or managers of the said legal entity, in case it is a limited liability company.

ç.<sup>137</sup> Obtaining a notification address via UETS and keeping this address available for notifications,

(4) In license applications, excluding generation licenses;

a. The following must be included in the articles of association of the applicant legal entity;

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<sup>133</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>134</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>135</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>136</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>137</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

1)<sup>138</sup> In case such legal entity is incorporated as a joint stock corporation, all of its shares (excluding publicly traded shares in accordance with capital markets legislation) are in registered form and such company will not be able to issue any shares in bearer form, excluding those shares issued to be publicly traded,

2) The provisions stipulated in this Regulation regarding share transfers and company mergers,

3) As for legal entities whose tariffs are subject to regulation, amendment of the provisions regarding the purpose and field of activity of the company in accordance with applicable electricity market legislation and requirement of obtaining the approval of the Authority for amendments to the said provisions of the articles of association,

b. Company's articles of association evidencing that the minimum share capital of the company amounts to below values shall be submitted;

1) Two million Turkish liras for supply license applications,

2) The ratio and/or amount designated by the Board for distribution license applications, market operating license applications and supply license applications of assigned supply companies,

Issues regarding the share capital adequacy required to be maintained by distribution licenses holder legal entities and assigned supply companies during the term of their licenses shall be designated by a Board decision.

c. Document evidencing that the license fee has been deposited to the Authority's bank account shall be submitted.

ç)<sup>139</sup> If the legal entities applying for a supply license wish to add an independent electricity storage facility to their license, they shall apply to the Authority as specified in the first paragraph. In case of an application within this scope, the provisions of the second paragraph of Article 15 shall be applied regarding the connection of said independent electricity storage facility to the system and the system usage. Capital adequacy and collateral requirements shall not be sought for units that fall within this scope. If the request is approved by the Board, information regarding the storage facility shall be annotated to the supply license by the relevant primary service unit if the decision required under the Environmental Impact Assessment Regulation is submitted to the Authority within the period specified in the Board decision.

d)<sup>140</sup> An opinion shall be requested from TEİAŞ regarding the compliance of the storage facility with the required technical criteria in supply license applications made for the purpose of establishing an independent electricity storage facility.

(5) The pre-license holder legal entity intending to apply for a generation license shall apply to the Authority for a generation license within the pre-license period as explained under the sixth paragraph, on the condition that it fulfills its obligations under the pre-license. In case the pre-license holder does not apply for a generation license prior to expiry of the pre-license term, the obligations required to be fulfilled within the pre-license period shall be deemed to have not been fulfilled.

(6)<sup>141</sup> The following shall be submitted together with a generation license application (...)<sup>142</sup>;

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<sup>138</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>139</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>140</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>141</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>142</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

a. Information and documents certifying that the actions and transactions specified in the first paragraph of Article 17 have been completed within the scope of the pre-license of the applicant legal entity,

b.<sup>143</sup> Guarantee in the amount designated by a Board decision, corresponding to the ratios designated by a Board decision on the basis of resource type and installed capacity, provided that it does not exceed ten percent of the total investment amount envisaged by the Authority for the generation facility,

c.<sup>144</sup> A timeline prepared in consideration of the properties of the generation facility subject to the license and covering the process up until the completion date of the generation facility or a work program accepted by the General Directorate of Energy Affairs within the scope of the YEKA Regulation,

ç. Document evidencing that the license fee has been deposited to the Authority's bank account,

d.<sup>145</sup> Company's articles of association stating that the minimum share capital of the company has been increased to twenty percent of the total investment amount envisaged by the Authority for the generation facility, to five percent in terms of the generation license applications made for establishment of a generation facility based on nuclear energy or domestic coal or within the scope of YEKA with mechanical power exceeding 100 MW, and that the approval of the Authority will be obtained for amendments to the articles of association to decrease the share capital amount of the company,

e.<sup>146</sup> Company's articles of association, which includes the provisions set forth in this Regulation with respect to company mergers and demergers.

Only ten percent of the license fee shall be collected from legal entities that apply for a license to establish a generation facility based on domestic natural resources and renewable energy resources. As for generation license applications for a combined renewable electricity generation facility and a combined electricity generation facility, the installed capacities of the main resource and auxiliary resource shall be added up and evaluated together based on the main resource with respect to the obligations set out under paragraphs (a), (b), (ç) and (d).<sup>147</sup> For the purposes of determining the obligations under sub-paragraphs (b) and (d) of this paragraph, the installed mechanical capacity based on wind or solar energy and the fees corresponding to the capacity of the electricity storage unit shall be aggregated and evaluated together for license applications within the scope of electricity generation facility with storage.

(7) Generation license shall be granted to a legal entity applying for a license for a generation facility that falls within the scope of privatization, provided that the obligations specified in this Regulation are duly fulfilled.

(8)<sup>148</sup> A generation license application can be made directly without obtaining a pre-license, provided that the information and documents evidencing the fulfillment of the obligations specified in Article 17 are submitted during the application process. In case the provisional acceptance of the generation facility subject to the generation license application has already taken place, the obligations stipulated under Article 17 and the provisions of this Regulation regarding the

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<sup>143</sup> Amended pursuant to the Regulation published in the Official Gazette dated 15 December 2017 and numbered 30271.

<sup>144</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>145</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>146</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>147</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>148</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

minimum share capital and guarantee requirements, shall not apply with regard to the said application.

(9) The following provisions of this article shall not apply to public legal entities;

- a. Fourth paragraph, excluding sub-paragraph (c),
- b. Sixth paragraph, excluding sub-paragraphs (a) and (ç)

(10) OIZ Generation License and OIZ Distribution License applications as well as the procedures and principles regarding the receipt, examination, evaluation and finalization regarding the same shall be regulated by a separate regulation.

(11)<sup>149</sup> In case a legal entity that obtained a pre-license for YEKA does not apply for a generation license within the pre-license term, this shall be notified to the General Directorate of Energy Affairs.

### **Receipt and review of license applications**

**ARTICLE 21**<sup>150</sup> – (1) The examination of whether the documents requested from legal entities during the application are duly submitted shall be completed within ten business days following the date of their submission to the Authority. The deficiencies in the license applications identified to contravene the applicable legislation shall be requested to be corrected within fifteen business days from the date of the notification to the relevant entity, and the legal entity shall be notified that, if the said deficiencies are not corrected, the application will be deemed not made and that the documents submitted to the Authority during the application will be returned. Information and documents submitted in this context shall be reviewed within ten business days, and if the deficiencies are not corrected within the said period or the Authority is notified that the application has been withdrawn, the application shall be considered as not made, and the documents submitted to the Authority during the application shall be returned. The Board decisions that are made as to the effect that generation license applications for YEKA are to be deemed as not made shall also be notified to the General Directorate of Energy Affairs, and the generation license fee shall not be refunded, if already deposited.

(2) The applications identified as complete according to the license application principles shall be admitted to review as of the application date, and the applications identified as incomplete shall proceed to be reviewed within the framework of Article 22 as of the date that the information and documents regarding the correction of such deficiencies are submitted to the Authority pursuant to paragraph (1) above.

### **Evaluation of license applications**

**ARTICLE 22** – (1) In its evaluation, the Authority shall take into consideration the following as a basis with respect to distribution, supply and market operating licenses:

a. Impact on protection of consumer rights as well as on the development of competition and the market,

b. The experience and performance in the market of the legal entity making the application and, if applicable, persons who have a direct or indirect shareholding of ten percent or more in such legal entity and five percent or more in such legal entity, in case such legal entity is a publicly traded legal entity,

c. Opinions received from relevant institutions about the application and/or ongoing or finalized transactions regarding the relevant legal entity.

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<sup>149</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>150</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.



(2) In evaluation of generation license applications, it shall be taken into account whether the applicant legal entity has completed its pre-license obligations within the pre-license term.

(3) The fact that the license application is admitted into review does not automatically mean that the applicant is entitled to obtain a license.

### **Finalization of license applications**

**ARTICLE 23** – (1) The evaluation made by the Authority regarding a license application under its review shall be completed within 45 days, the evaluation shall be submitted to the Board to be concluded by a Board decision.

(2) As for generation license applications, the below procedure shall apply following the evaluation;

a. If it is determined that any of the pre-license obligations are not timely completed, the application of the said legal entity shall be rejected by a Board decision.

b. If it is concluded that the pre-license obligations have been timely completed, a generation license shall be granted to the said legal entity by a Board decision.

(3) As for generation licenses;

a. Construction period and facility completion date shall be annotated to the generation license. The construction period, which is considered as the basis for determining the completion date of the facility, shall be designated by a Board decision and announced on the Authority's website,

b. <sup>151</sup> The envisaged annual maximum generation volume that the facility subject to the license can generate based on its resource with its current installed capacity shall be annotated to generation licenses based on renewable energy resources as the annual electricity generation volume.

c. The projected annual average generation volume shall be annotated to generation licenses based on energy resources other than renewable energy resources as the annual electricity generation volume.

(4) The legal entity that fulfills the obligations specified under this Regulation shall be granted a license by a Board decision, and the trade name of the license holder legal entity together with the license type and license term shall be published in the Official Gazette and announced on the Authority's website.

### **Examination, evaluation and finalization of license amendment applications**

**ARTICLE 24** – (1)<sup>152</sup> Licenses can be amended in the following cases;

a. As per the request of the license holder and approval of such request,

b. If it is decided that the price, parameter, benchmark and similar items designated within the scope of the revenue and tariff regulation shall be annotated to the license or if there is a change in the said items.

c. Legislative amendments and implementations of the legislation requires amendment of matters annotated to the license.

(2)<sup>153</sup> As for license amendment applications;

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<sup>151</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>152</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>153</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

a. License amendment applications shall be made by way of submitting the required documents under the "Procedures and Principles regarding Applications related to Pre-license and License Transactions" to the Authority via the EMRA Application System,

b. The examination on whether the documents requested from legal entities during the amendment application are duly submitted shall be completed within ten business days following the date of their submission to the Authority. Deficiencies in the license amendment applications identified to contravene the applicable legislation shall be requested to be corrected within fifteen business days from the date of the notification to the relevant entity, and the legal entity shall be notified that, if the said deficiencies are not corrected, the application will be deemed not made. The information and documents submitted by the applicant in response to said request shall be reviewed within ten business days. In the event the primary service unit determines that the deficiencies are not corrected or the Authority is notified that the application has been withdrawn, the application shall be considered as not made, and this shall be notified to the relevant legal entity. The documents submitted to the Authority during the application shall be returned, if requested by the applicant.

c. Applications identified as complete shall be admitted into review within the framework of this article as of the application date or as of the date that the information and documents correcting the deficiencies are submitted to the Authority pursuant to sub-paragraph (b).

ç. The following shall be taken into consideration in the evaluation to be made by the Authority with respect to license amendment applications for distribution, supply and market operating licenses:

1) Impact on protection of consumer rights as well as on the development of competition and the market,

2) The experience and performance in the market of the legal entity making the application and persons who have a direct or indirect shareholding of ten percent or more in such legal entity and five percent or more in such legal entity, in case such legal entity is a publicly traded legal entity,

3) Opinions received from relevant institutions about the application and/or ongoing or finalized actions concerning the relevant legal entity.

(3)<sup>154</sup> In the following cases, licenses can be amended during the construction of a generation facility, by way of extending the facility completion period;

a) There is an event of force majeure or circumstances deemed acceptable by the Board,

b) Such circumstances directly affect or has the potential to directly affect the commissioning of the generation facility,

c) Application is submitted to the Authority together with reasons thereof and the relevant documents, within the facility completion period specified under the license,

If it is determined that the generation facility investment has reached an irrecoverable point, the time requirement stipulated under sub-paragraph (c) shall not apply.

(4)<sup>155</sup> In case a license amendment application is made by way of amending the mechanical capacity or installed electrical capacity of a generation facility subject to a license, the second paragraph of Article 15 shall apply as to connection of the generation facility to the transmission and/or distribution system and the use of the system. If the said application is approved by the Board or the relevant primary service unit, the following shall be submitted to the Authority within ninety days or the period specified in the relevant Board decision or primary service unit's

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<sup>154</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>155</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

administrative action starting from notification of the said approval decision to the relevant legal entity:

a. Information or documents evidencing that the minimum share capital of the company is revised in accordance with the share capital amount designated by the Authority based on the new installed capacity,

b. Information or documents pertaining to the revised resource utilization right agreement or information or documents evidencing that there is no need to revise the said agreement,

c. Information or documents evidencing that the guarantee amount is revised in accordance with the amount specified under the relevant Board decision based on the new installed capacity,

ç.<sup>156</sup> The application is required to be made to the relevant authority within forty-five days to obtain the decision required within the scope of the Environmental Impact Assessment Regulation and the said decision,

Provided that the remaining obligations specified under this paragraph are fulfilled within the specified period, the Environmental Impact Assessment Affirmative Decision to be obtained for projects subject to Environmental Impact Assessment within the scope of the Environmental Impact Assessment Regulation can be submitted to the Authority within one year, excluding force majeure events. The license amendment shall be carried out by the relevant primary service unit, provided that the obligations specified under this paragraph are timely fulfilled. If the said obligations cannot be fulfilled on time, the amendment application shall be deemed to have been rejected.

(5)<sup>157</sup> Installed capacity increases or decreases, modernizations, renewal investments and repairs at facilities subject to generation licenses based on renewable energy resources may be approved, provided that;

a. The connection opinion obtained from TEİAŞ and/or the relevant distribution company regarding the amendment is affirmative,

b. The generation facility remains in the site annotated to the license,

c.<sup>158</sup> Approval of DSI for generation facilities based on hydraulic resources is obtained and technical assessment conducted by the General Directorate of Energy Affairs for wind or solar energy and biomass and geothermal energy based generation facilities yields an affirmative result.

The license shall be amended, provided that the relevant obligations specified under subparagraphs (a) and (b) (c) or (ç) of the fourth paragraph are fulfilled within the period starting from the date of notification of the Board decision or primary service unit's administrative action regarding approval, as specified in the relevant administrative action, and the Technical Interference Permit certificate for wind energy based generation facilities is submitted to the Authority within 180 days from the date of notification of the Board decision or the primary service unit's approval. If the said obligations are not timely fulfilled, the amendment application shall be deemed rejected.

(6)<sup>159</sup> Mechanical capacity amendment with respect to generation licenses based on renewable energy resources may be approved, provided that;

a. The site specified under the license is not expanded,

b. The power provided to the system at the time of operation does not exceed the installed capacity specified under the license,

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<sup>156</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>157</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>158</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>159</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

c. As for licenses based on wind or solar energy and biomass or geothermal energy, the technical assessment conducted by the General Directorate of Energy Affairs is concluded affirmatively, and for licenses based on hydroelectric resources, the approval of DSI is obtained. Mechanical capacity shall be amended, provided that the relevant obligations specified under subparagraphs (a) and (b) (c) and (ç) of the fourth paragraph are fulfilled within the period specified in the Board decision or primary service unit administrative approval, said period to start from the date of notification of the decision or administrative approval, and the Technical Interference Permit certificate for wind energy based generation facilities is submitted to the Authority within 180 days from the date of notification of the Board decision or the primary service unit's affirmative administrative action. If the said obligations are not fulfilled in due time, the amendment application shall be deemed rejected. The mechanical capacity increase within the scope of this paragraph shall not be considered as an increase of installed electrical capacity. The total amount of mechanical power to be added within the scope of mechanical capacity increase shall not exceed the installed electrical capacity annotated to the license, including those in operation.

(7)<sup>160</sup> For amendments to be made as per the request of the license holder, the license amendment process shall be carried out by the relevant primary service unit following the amendment decision. In the event any obligation is specified in the amendment decision, the said obligations must be delivered to the Authority within thirty days from the date of notification of the amendment decision or within the period stipulated in the amendment decision. If the said obligation is not fulfilled, the license amendment request shall be deemed rejected.

(8) Following the license grant date, license amendment requests regarding the following shall be concluded in accordance with the provisions of the Electricity Market Import and Export Regulation:

a. Supply license holder legal entity to engage in import and export activities to and from countries meeting the conditions for international interconnection;

b. Generation license holder legal entity to engage in export activities to countries meeting the conditions for international interconnection;

c. The request of a generation license holder legal entity to export the electricity generated in a generation facility established within the provinces that are located along international borders, through a special direct line to be established, without establishing a connection to the transmission or distribution system.

(9)<sup>161</sup> If a generation facility site subject to a generation license is intended to be relocated and it is determined that this falls within the scope of force majeure or cases deemed appropriate by the Board, necessary amendment can be made in the said license, provided that the requested amendment does not violate third party rights, the connection point or connection area does not change, and the approval decision of the General Directorate of State Hydraulic Works is obtained for facilities based on hydraulic resources, and the result of the technical assessment of the General Directorate of Energy Affairs is positive for facilities based on wind or solar energy. No announcement shall be made for sites where the ownership of the entirety of the project site subject to the application belongs to the relevant legal entity as well as for the facility sites that are owned by the relevant municipality regarding projects where municipal wastes will be used as resource and which is allocated as the power plant site to the legal entity who has the right to utilize the municipal wastes. The technical assessment requirement shall not be sought for wind energy based

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<sup>160</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>161</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

facilities provided that a portion of the power plant site remains within the same site, the total size of the power plant site does not change, the reasoning for the amendment request is determined by the Board to qualify as force majeure and the relevant facility is partially or fully in operation. Notwithstanding, the opinion of the General Directorate of Energy Affairs shall be obtained regarding the intersection/overlap and interference status of the turbines in neighboring sites affected by the change proposed in the power plant site.

(10)<sup>162</sup> The license amendment application that is deemed appropriate in terms of the applicable legislation following the evaluation made shall be finalized either by the Board or the relevant primary service unit, depending on the applicant entity.

(11)<sup>163</sup> The license amendment requests regarding the following and transactions regarding notification obligations specified in the first and second paragraphs of Article 57 shall be finalized by the relevant primary service unit;

a. Amendment of the trade name and company type of the license holder, excluding legal entities tariffs of which are subject to regulation.

b. Without prejudice to sub-paragraph (e), amendment of the unit number, unit capacity, unit coordinates, annual electricity generation volume, the province, district, location of the generation facility and the name of the generation facility, provided that the connection point and installed capacity set forth under the special provisions of the license do not change,

c. Amendment of the notification address set forth under the special provisions of the license,

ç. Information in the licenses of legal entities whose tariffs are subject to regulation regarding individuals and legal entities who directly or indirectly hold shares in said legal entities,

d. Amendment of information regarding the turbine coordinates of a generation facility site based on the Technical Interference Permit and the certificate of concurrence to be obtained from the General Directorate of Energy Affairs that the turbine coordinates in neighboring fields are not affected for generation licenses based on wind energy,

e. Amendments to be made with respect to installed capacity of up to ten percent, provided that such amount does not exceed 10 MW in total. For amendments to be made within the scope of this paragraph, the provisions of this Regulation regarding share capital and guarantee requirements shall not apply. If third parties object to the amendments made within the scope of this paragraph, the said objection and the amendment transaction subject to objection shall be concluded by the Board.

(12) The license amendment made shall be notified to the relevant legal entity in writing. In case the license amendment application is rejected, the reason thereof shall be notified in writing to the relevant legal entity.

(13) If the license holder requires additional time to fulfill the obligations arising from the license amendment, the said period shall be designated by a Board decision, and included in the amended licenses.

(14)<sup>164</sup> For generation license amendment applications with the purpose of establishing a new generation facility or units to replace a licensed generation facility or units that have completed their economic life, minimum share capital requirement as well as the obligation to provide a guarantee shall apply with respect to the proposed additional installed capacity.

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<sup>162</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>163</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>164</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

(15)<sup>165</sup> As for generation licenses issued for YEKA, the facility completion period for the generation facility shall be extended by the extension term granted with respect to the work program, in case it is declared that the Ministry acknowledges that the delays in the work program are attributable to events of force majeure.

(16)<sup>166</sup> The amendment requests with respect to the following matters registered under generation licenses issued for YEKA shall be concluded by Board decision:

- a. Unit coordinates, unit number and unit capacity,
- b. Annual electricity generation volume,
- c. Amendments to the trade name and company type of the generation license holder legal entity,

ç.<sup>167</sup> For generation licenses based on wind energy, the unit coordinate amendment to be made under sub-paragraph (a) shall be concluded further to the certificate of conformity issued by the General Directorate of Energy Affairs evidencing that the turbine coordinates in the sites neighboring the facility site are not affected, provided that the Technical Interference Permit certificate is submitted with the application. As for generation licenses based on wind energy, amendments to unit numbers and unit capacity within the scope of sub-paragraph (a) shall be concluded further to the conformity certificate issued by the General Directorate of Energy Affairs. The fourth, fifth and ninth paragraphs of this article as well as the provisions of the eleventh paragraph of this article that are regulated separately under this paragraph and the thirteenth paragraph of this article shall not apply to generation licenses issued for YEKA.

(17)<sup>168</sup> Amendment applications to transform the facility subject to a generation license into a multi-source electricity generation facility may be approved on the following conditions;

- a. The site annotated to the license is not expanded,
- b. The total installed electrical capacity of the facility annotated to the license does not change,
- c. The current connection type, connection point and voltage level annotated to the generation license do not change,
- ç. The technical assessment conducted by the General Directorate of Energy Affairs regarding the auxiliary resources for licenses, where the auxiliary resource is based on wind or solar energy is found appropriate,
- d. Approval of DSİ is obtained for generation facilities based on hydroelectric resources.

The license shall be amended provided that the obligations specified under the fourth paragraph are fulfilled, and the Technical Interference Permit certificate for wind energy based generation facilities as well the lease agreement executed with DSİ for floating GESs or for solar energy units to be installed on the canal surfaces or in the reservoir area between the maximum water level and operating elevation of facilities based on hydroelectric resources, are submitted to the Authority within the period specified in the Board decision, starting from the date of notification of the Board decision on approval,

(18)<sup>169</sup> The amendment application filed within the scope of adding an adjoined electricity storage unit to the facility subject to generation license can be approved provided that the following conditions are met;

- a) The site annotated to the license is not exceeded,

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<sup>165</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>166</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>167</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>168</sup> Amended pursuant to the Regulation published in the Official Gazette dated 28 July 2020 and numbered 31199.

<sup>169</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

b) The installed electrical and/or mechanical capacity annotated to the license do not change,  
c) The existing connection type, connection point and voltage level annotated to the license do not change,

ç) An affirmative opinion is obtained from the relevant network operator regarding the connection of said electricity storage unit to the system and the system usage in accordance with the second paragraph of Article 15.

d)<sup>170</sup> TEİAŞ opinion is obtained regarding the compliance of the said electricity storage unit with the required technical criteria. License amendment shall be made on the condition that application is submitted to relevant authorities to obtain the decision required under the Environmental Impact Assessment Regulation within forty-five days from the date of notification of the Board's approval decision, and that the said decision is submitted to the Authority within the time period specified in the aforementioned Board decision. Capital adequacy and collateral requirements shall not be sought for units that fall within this scope. (19)<sup>171</sup> If legal entities holding a supply license wish to establish an independent electricity storage facility, they shall apply to the Authority for license amendment to add said facility to their license. If a request is made within this scope, the provisions of the second paragraph of Article 15 shall be applied regarding the connection of said electricity storage facility to the system and system usage. If the request is approved by the Board, license amendment shall be made on the condition that application is submitted to relevant authorities to obtain the decision required under the Environmental Impact Assessment Regulation within forty-five days from the date of notification of the Board's approval decision, and that the said decision is submitted to the Authority within the time period specified in the aforementioned Board decision. Within the scope of the third paragraph; the provisions applicable to license amendment requests regarding the extension of the term of generation facilities shall also be applied to independent electricity storage facilities. Capital adequacy and collateral requirements shall not be sought for the facility that falls within this scope. A separate license amendment application shall be made for each independent electricity storage facility to be added to supply licenses.

(20)<sup>172</sup> TEİAŞ opinion shall be requested regarding the compliance of the storage facility with the required technical criteria in license amendment applications made for adding an independent electricity storage facility to the existing supply license.

(21)<sup>173</sup> Legal entities holding electricity generation licenses based on wind or solar energy, that undertake to establish an electricity storage unit from generation facilities that are partially or fully in operation, shall be allowed to increase their capacity up to the installed capacity of the electricity storage unit that they undertake to establish, provided that they satisfy the conditions specified in the fifth paragraph of this Article. The amendment application within this scope shall be made in accordance with the fourteenth paragraph of Article 12. The issuance of connection opinions for such amendment requests shall be carried out within the scope of sub-paragraph (b) of the ninth paragraph of Article 15. The electricity storage unit as well as units based on wind or solar energy that are added to those facilities requesting capacity increase within this scope shall be evaluated as electricity generation facility with storage.

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<sup>170</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>171</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>172</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>173</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

(22)<sup>174</sup> Change of title of license holder legal entities engaged in activities whose tariff is subject to regulation shall be subject to Board approval.

### **Evaluation and finalization of license renewal applications**

**ARTICLE 25 – (1)**<sup>175</sup> Licenses can be renewed as per the request of the license holder for a maximum term of forty-nine years on each occasion, starting from the end of the license term, and observing the minimum term stipulated in the Law. Generation licenses issued for YEKA are non-renewable.

(2)<sup>176</sup> License renewal requests can be made as early as 12 months and as late as 9 months prior to the end of the current license term, whereas, for supply license such request can be made as late as one month, and for distribution companies and assigned supply companies, such request can be made as early as 15 months and as late as 12 months prior to the end of the current license term, by way of a written application to be submitted by the license holder to the Authority. The document evidencing that the license renewal fee has been deposited to the Authority's bank account shall be attached to the said application.

(3) In case assigned supply companies or distribution license holder legal entities do not apply to the Authority to renew their licenses before the end of their license terms and within the prescribed periods, the Authority shall take the necessary measures to protect the consumers and prevent service disruption.

(4) In the evaluation of the license renewal requests with respect to distribution, supply and market operating licenses, the following shall be taken into consideration with respect to the license holder:

a. Impact on protection of consumer rights as well as on the development of competition and the market,

b. The experience and performance in the market of the legal entity making the application and persons who have a direct or indirect shareholding of ten percent or more in such legal entity and five percent or more in such legal entity, in case such legal entity is a publicly traded legal entity,

c. Opinions received from relevant institutions about the application and/or ongoing or finalized actions concerning the relevant legal entity.

ç. Agreements and/or permits that need to be renewed with the relevant public institutions and organizations.

(5) In order for distribution licenses to be renewed, the license holder shall certify that it has obtained the right to operate the distribution system within the distribution region specified under its license. The application of the distribution license holder that cannot certify that it has obtained the operating right in question shall be rejected by a Board decision. In this case, the new legal entity to be granted a distribution license shall be designated within the framework of the Regulation on Measures Regarding Distribution and Supply Licenses in the Electricity Market.

(6) In order for the supply license of an assigned supply company to be renewed, the license holder shall certify that it has acquired the right to operate the assets related to the regulated activities within the distribution region under its license. The application of the assigned supply company that cannot certify that it has obtained the operating right in question shall be rejected by a Board decision. In this case, , the new legal entity to be granted a supply license shall be

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<sup>174</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>175</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>176</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.



designated within the framework of the Regulation on Measures regarding Distribution and Supply Licenses in the Electricity Market and shall be appointed as the supplier of last resort.

(7) The evaluation of the license renewal application shall be finalized no later than three months prior to the end of the license term and the Board decision on the license renewal application shall be notified to the license holder in writing.

(8) The trade name of the license holder legal entity whose license is renewed as well as the type and term of the renewed license shall be published in the Official Gazette, and announced on the Authority's website.

### **Termination of licenses**

**ARTICLE 26** – (1) A license terminates:

a. Automatically, upon expiry of its term,

b.<sup>177</sup> By a Board decision, in case it is held that the license holder legal entity is bankrupt or the sale of the generation facility as a result of an execution proceeding is concluded, as well as upon request of the license holder, or loss of the requisite conditions for license eligibility.

(2)<sup>178</sup> If a license holder legal entity wishes to cease its activity under its license, it is essential for such legal entity to apply to the Authority at least six months prior to the requested date of the license termination, whereas, for distribution companies and assigned supply companies, at least twelve months prior to the requested date of license termination, via the EMRA Application System, together with the reasons thereof. However, the Board may opt not to apply the said time limits, taking into account the effects of such termination request on the market. It shall also be specified within this application what types of obligations the license holder will have as of the date it wishes to terminate its license, and what types of measures are envisaged to fulfill such obligations.

(3) In case the termination request is approved by a Board decision as a result of the evaluation made, such license shall terminate on the date specified in the Board decision. The Board may refuse such request by way of notifying the legal entity of the reasons thereof, or postpone the requested license termination date to a later date, in case it is determined that the termination of such license will have a detrimental effect on the consumers and market conditions.

(4) If a distribution license holder legal entity wishes to terminate its license prior to the end of its license term, such license shall not be terminated until a new legal entity who will carry on the activities covered by such license is issued a license. If the assigned supply company wishes to terminate its license prior to the end of its license term, such license shall not be terminated until another legal entity that will carry on with the activity covered by such license is designated by the Board.

(5) In the event that the license of a distribution company or assigned supply company expires or it becomes necessary to cancel its license by the Board, the legal entity to be granted a distribution license or the legal entity responsible as supplier of last resort shall be designated within the framework of the Regulation on Measures Regarding Distribution and Supply Licenses in the Electricity Market.

(6)<sup>179</sup> The request for the amendment of the relevant pre-license or generation license by way of reducing the installed capacity of the units based on the main resource in the pre-license or generation license to zero pertaining to a combined electricity generation facility or combined

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<sup>177</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>178</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>179</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

renewable electricity generation facility, shall be considered as a request for termination of the said pre-license or generation license.

### **Sanctions and license cancellation**

**ARTICLE 27**<sup>180</sup> – (1) In case a license holder legal entity acts in violation of the provisions of applicable legislation, the sanctions stipulated under Article 16 of the Law shall apply, depending on the nature of the act.

(2) Excluding events of force majeure and just causes not attributable to the license holder, a generation license shall be canceled, in cases where the generation facility cannot be established within the construction period specified in the relevant license or where it is determined that the generation facility cannot be completed within the remaining period,

(3) The legal entity whose license has been cancelled, shareholders holding ten percent or more of the shares of such legal entity, the chairman and members of its board of directors as well as its managers (in case such legal entity is a limited liability company), including those who have left office within one year preceding the license cancellation date, may not obtain a pre-license and license, apply for a pre-license and license, be a direct or indirect shareholder in legal entities applying for pre-license and license, and take office in their board of directors, for three years following the cancellation of the license, excluding generation license applications that are made within the scope of their existing pre-licenses. After the pre-license and license application, if the shareholders, chairman and members of the board of directors of a legal entity and directors of a legal entity, in case such legal entity is a limited liability partnership become blacklisted, ninety days shall be given to remedy such discrepancy. If the said discrepancy is not remedied, the relevant application shall be rejected by a Board decision.

(4)<sup>181</sup> Article 16 of the Law shall apply to license cancellations except for those specified in the third paragraph above.

(5)<sup>182</sup> In the event that the construction license and/or operating license applications for a nuclear power-based generation facility is not successful or the existing construction license and/or operating license is canceled, the relevant generation license shall be canceled. In addition, if the obligations set forth under the third paragraph of Article 17 are not submitted to the Authority within the period specified by the Board, excluding events force majeure or just causes not attributable to the license holder, the generation license shall be canceled.

(6) Generation licenses for YEKA shall be cancelled in the following cases:

a. Until the generation facility is operational, a direct or indirect change in the shareholding structure of the license holder legal entity takes place without the written approval of the Ministry, or an act or transaction is conducted which would result in the transfer of the shares, such as share transfer, merger or spin-off;

b. Failure to timely fulfill the obligations specified by the Board within the framework of the requirements arising from the applicable legislation or requirements of market structure;

c.<sup>183</sup> Termination of the YEKA Utilization Right Agreement upon determination of a failure to use the components as well as the domestic goods and domestic components specified in the supply plan, that are envisaged to be used in the electricity generation facility within the scope of Allocation in Exchange for Domestic Manufacturing or Allocation in Exchange for Use of

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<sup>180</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>181</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>182</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>183</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

Domestically Manufactured Goods , and a failure to remedy the notified irregularities within the period specified in the written notice issued by the General Directorate of Energy Affairs,

ç. A notification is made to the Authority by the Ministry that a generation license holder legal entity failed to timely fulfill its undertakings under the YEKA Utilization Right Agreement.

d.<sup>184</sup> Determination of fraudulent circumvention of law or false statement in connection with the requests made and transactions conducted within the scope of this Regulation.

(7)<sup>185</sup> If the electricity storage unit adjoined to the generation facility and the independent electricity storage facility are not completed within the time period annotated to the license, the provisions regarding said storage unit or facility shall be removed from the scope of such license by Board decision.

(8)<sup>186</sup> In the settlement periods in which the electricity storage units within the electricity generation facility with storage are not in operation, the volumes supplied to the system by such electricity generation facilities with storage shall not be taken into account in the settlement calculations in accordance with the relevant legislation.

(9)<sup>187</sup> The license shall be cancelled if the electricity storage unit undertaken to be established within the scope of the fourteenth paragraph of Article 12 is not put into operation within the time period specified by Board decision, with the exception of force majeure. If the electricity storage unit undertaken to be established within the scope of the twenty-first paragraph of Article 24 is not put into operation within the time period specified by Board decision, excluding occurrence of force majeure, the installed capacity allocated within this scope shall be removed from the license and the guarantee submitted to the Authority within the scope of the amendment shall be forfeited.

## CHAPTER SIX

### Rights Obtained and Obligations Assumed by Pre-license and Licenses

#### The rights and obligations of pre-license holder

**ARTICLE 28** – (1) Pre-license grants its holder the right to take action before the related institutions and organizations for the purpose of obtaining permits, approvals, licenses and similar documents required as per the legislation, as well as acquiring ownership of or having usufruct rights established on the land on which the generation facility will be constructed.

(2) In addition to those listed under the applicable legislation, the pre-license holder:

a. shall submit all kinds of information and documents to the Authority that the Authority may require in order to carry out its activities;

b. shall not make any changes directly or indirectly in the shareholding structure, save for reasons of inheritance and bankruptcy and the exceptions specified under this Regulation, not transfer their shares, nor conduct business and transactions that will result in transfer of shares until the license is obtained;

c.<sup>188</sup> shall not use immovable properties that are within the scope of the project subject to the pre-license or directly affected by the project subject to the pre-license, but for which the right to use has not been obtained.

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<sup>184</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>185</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>186</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>187</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>188</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

### **General rights and obligations of license holders**

**ARTICLE 29** – (1) The rights and obligations of a license holder legal entity within the scope of its license shall become effective with the entry into force of the license.

(2) Without prejudice to the obligations arising from the license, the license holder may procure services in respect of the activities within the scope of its license, which are designated by this Regulation,

(3)<sup>189</sup> In addition to those listed under the applicable legislation, the license holder is obliged:

a. not to trade electricity and/or capacity domestically with an unlicensed person, except for consumers.

b. to fulfill the obligations designated under applicable legislation regulating balancing and settlement procedures;

c. to operate the facilities within the scope of its license in accordance with the provisions of the legislation;

ç. to ensure that the service within the scope of its license is carried out according to technical requirements;

d. to comply with all the instructions given by the Authority within the framework of the applicable legislation;

e. to keep the facilities, its legal books and records ready for inspection by the Authority, make the same available for inspection when requested by the Authority;

f. to submit any information and documents requested by the Authority in a timely, complete and accurate manner;

g. to submit the notifications, reports and other documents requested by the Authority or to be submitted to the Authority in accordance with the procedures and principles set forth under the applicable legislation;

ğ. to comply with the provisions annotated to its license;

h. to keep confidential the information provided by or obtained from individuals and legal entities for it to carry out the activities within the scope of its license and not to misuse such information;

ı. to pay the fees related to license transactions and the annual license fee to the Authority on time and in full;

i. to fulfill the requirements arising out of other applicable legislation according to its field of activity, in addition to obtaining a license,

j.<sup>190</sup> to take all necessary technical and administrative measures to ensure the proper security level, prevent third parties from illegal access to and illegal processing of and to ensure the confidentiality, integrity and accessibility of the data stored in the data processing center it establishes and/or obtain services from for the purposes of processing or storage of data regarding its business and transactions within the scope of its licenses.

k.<sup>191</sup> to utilize primary equipment such as turbines, generators, blades, panels, inverters, steam boilers, engines, batteries, etc. that are manufactured in accordance with the relevant legislation and standards, covered by warranty and produced within the last five years in the electricity generation facility and the electricity storage facility or unit to be established within the scope of the Storage Activities in the Electricity Market Regulation published in the Official Gazette dated 9/5/2021 and numbered 31479, except for the cogeneration and trigeneration

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<sup>189</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>190</sup> Amended pursuant to the Regulation published in the Official Gazette dated 15 December 2017 and numbered 30271.

<sup>191</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

facilities to be established within the scope of this Regulation and the equipment procured within the scope of maintenance and repair for the units that are accepted.

Sub-paragraph (k) of this paragraph shall not apply to license holders who will utilize equipment that are manufactured domestically.

(4) In addition to those listed under the third paragraph, a license holder whose tariff is subject to regulation:

a. shall not cross-subsidize between market activities and between market activities and non-market activities;

b. shall act as a prudent merchant with regards to electricity or capacity purchases made for sale to consumers;

c. save for OIZs and the exceptions specified under this Regulation, shall not operate outside the market;

ç.<sup>192</sup>

d. shall provide the service within the scope of its license on the basis of the principle of non-discrimination between equal parties;

e. shall organize construction, and goods and service supply tenders in a competitive environment, on the basis of the principles of transparency and equality.

(5) The rights and obligations of OIZ Generation License and OIZ Distribution License holders shall be regulated under a separate regulation.

(6)<sup>193</sup> Legal entities holding a generation license issued for a YEKA shall have the rights listed under this provision to the extent they do not conflict with the YEKA Regulation.

### **Rights and obligations of a generation license holder**

**Article 30** – (1)<sup>194</sup> A generation license holder is entitled to the following rights:

a. Installation and operation of the generation facility designated under its license;

b. Sale of electricity or capacity generated in the generation facility to:

1) supply companies,

2) eligible consumers,

3) those connected to a private direct line installed by the licensee;

c) Trade of electricity and/or capacity in organized wholesale electricity markets,

ç) Purchase electricity or capacity in order to fulfill its electricity or capacity supply responsibility, provided that it does not exceed the ratio determined by the Board of the annual electricity generation volume annotated to its license for one calendar year;

d) Export the electricity it generates to countries where international interconnection condition has been met;

e) With the permission of the Board, export electricity generated in its generation facility, provided it is located in provinces that are located along the border of Turkey, through a special direct line without establishing connection to the transmission or distribution system,;

f) Utilize the energy generated in its facilities to meet the needs of the consumption facilities that it owns, leases, has acquired through financial leasing or holds the operating rights of, provided that such energy is utilized without being conveyed to the transmission or distribution system, and that it is not considered as sales. Legal entities holding generation licenses issued for YEKAs shall

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<sup>192</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>193</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>194</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

utilize the electricity they generate only in accordance with the provisions set out under the YEKA Regulation.

g)<sup>195</sup> Establish and operate an adjoined electricity storage unit, provided that such is annotated to its license.

(2) In addition to those listed under the applicable legislation, generation license holder shall be obliged to fulfill the following:

a) keep the generation facility operational by fulfilling the obligations undertaken, except for the occurrence of events of force majeure and the annual maintenance schedule;

b) notify its annual scheduled maintenance program to TEİAŞ and/or the relevant distribution license holder;

c) pay the fees determined according to the transmission tariff and/or distribution tariff;

ç)<sup>196</sup> submit duly prepared progress reports to the Authority in January and July of each year about the activities carried out, until the acceptance of the total installed capacity of the facility annotated to the license of the generation facility;

d)<sup>197</sup>

e)<sup>198</sup> In times of crisis, tension and war, legal entities holding wind energy based generation licenses, shall adopt the measures requested by the Ministry of National Defense and/or the Ministry of Internal Affairs and/or the Directorate of MIT (National Intelligence Organization) regarding the systems operated under the responsibility of the Ministry of National Defense and/or the Ministry of Internal Affairs and/or the Directorate of MIT (National Intelligence Organization) and the wind turbines that are found to have an effect on the Communication, Navigation and Radar Systems;

f)<sup>199</sup> operate the corporate information system and industrial control systems in accordance with the TS ISO/IEC 27001 Information Security Management System standard for all generation facilities with an installed capacity of 100 MWe and above, excluding the OIZ generation license holders, within twenty-four months from the date of provisional acceptance, certifying its systems to prove to a certification body accredited to the Turkish Accreditation Agency that it operates in accordance with the TS ISO / IEC 27001 standard, and ensure the validity of these documents, by referring to the ISO / IEC TR 27019 guidelines in addition to the TS ISO / IEC 27002 Implementation Guide for the Information Security Management System that they will establish according to TS ISO / IEC 27001;

g)<sup>200</sup> not use the real property that is within the scope of the license or directly affected by the project subject to pre-license, but over which a usage right has not been established yet;

ğ)<sup>201</sup> legal entities holding a generation license based on biomass, who will use the by-products resulting from the processing of waste tires, to procure the by-products to be used in said facilities from the pyrolysis facilities they will establish within the facility subject to the license;

h)<sup>202</sup> legal entities holding a license for biomass based electricity generation facilities, which are accepted and commissioned, to submit the document required to be obtained from the Ministry of Environment, Urbanization and Climate Change within the scope of the Environmental Permit

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<sup>195</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>196</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>197</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>198</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>199</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>200</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>201</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>202</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

and License Regulation published in the Official Gazette dated 10/9/2014 and numbered 29115 to the Authority within twenty four months from the date of acceptance;

1)<sup>203</sup> notify the Authority within two months of the withdrawal, revocation, termination, suspension of execution or cancellation of the necessary permits, approvals, licenses and the like that are prerequisites for grant of license.

i)<sup>204</sup> In accordance with the Regulation on Collection and Presentation of Vertical Obstacle Data published in the Official Gazette dated 9/7/2020 and numbered 31180, legal entities holding generation licenses based on wind energy are obliged to determine information on all types of facilities and structures that constitute vertical obstacles within the scope of generation licenses by authorized scientists, to compile the charts in the annex of the said regulation within the specified periods, in the described quality, in a complete, accurate, timely manner and to send them to the General Directorate of Mapping upon confirming their accuracy and to keep this information up-to-date, to submit to the General Directorate of Mapping both in writing and electronically together with the name-surname signature of the generation license holder company official and the approval of the authorized/responsible engineer, to comply with the instructions given by the General Directorate of Mapping when performing the transactions within this scope.

(3)<sup>205</sup> The active output power that can be conveyed to the system from combined electricity generation facility and combined renewable electricity generation facilities cannot exceed the total electrical installed capacity of the units that have been provisionally accepted based on the main source. If the generation volume is more than the energy volume corresponding to the installed capacity of the units that have been provisionally accepted based on the main source, such excess volume of energy shall not be taken into account in settlement calculations within the scope of the relevant legislation. However, this situation does not eliminate the participant's obligations set forth under the applicable legislation.

(4)<sup>206</sup>

(5)<sup>207</sup>

(6)<sup>208</sup> The total power of the units and/or units to be established based on the auxiliary resource in the combined renewable electricity generation facility and the combined electricity generation facility shall be determined by Board decision.

(7)<sup>209</sup> In multi-resource electricity generation facilities, partial or full acceptance of unit or units based on the auxiliary resource cannot be made without partial or full acceptance of the units based on the main resource.

(8)<sup>210</sup> In terms of units based on wind or solar energy in electricity generation facilities with storage, the capacity up to the installed capacity in operation of the electricity storage unit can be put into operation. No amendment application can be made within the scope of electrical capacity increase or conversion to a multi-resource electricity generation facility before the entire electricity storage unit in question is put into operation.

## **Rights and obligations of the transmission license holder**

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<sup>203</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>204</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>205</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>206</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>207</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>208</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>209</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>210</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

**ARTICLE 31** – (1) TEİAŞ has the following rights within the scope of its transmission license:

- a) To exclusively engage in transmission activity and operate the transmission system;
- b) To construct a new generation facility within the scope of ancillary services agreements and/or to tender for the lease of capacities of existing generation facilities, limited to meeting regional system needs that may arise;
- c) To be able to establish and operate parts of the international interconnection lines that are outside national borders and/or establishing international companies for this purpose and/to be a shareholder to established international companies and participate in organizations related to the operation of regional markets;
- ç) To purchase electricity or capacity in order to meet the technical and non-technical losses of the transmission system and within the scope of the ancillary services market, to sell the surplus energy contracted to compensate for the technical and non-technical losses of the transmission system;
- d) With the permission of the Board, to conduct a non-market activity that will increase efficiency if performed in conjunction with the transmission activity;
- e) To establish and operate all kinds of communication and information systems infrastructure, including the radio system required for the operation of the transmission system;
- f) In line with the opinion of the Authority; to allow usage of a part of the fiber optic cable infrastructure by third parties, in a way that does not disrupt its own activities, within the framework of the applicable legislation.

(2) In addition to those listed under the applicable legislation, TEİAŞ shall be obliged to:

- a) carry out international interconnection studies in line with the decision of the Ministry;
- b) make a transmission investment plan for the new transmission facilities to be established, establish new transmission facilities and invest in replacement and capacity increase in the transmission system, when necessary;
- c) provide transmission and connection services to all system users who are connected to or to be connected to the transmission system, including eligible consumers, based on the principle of non-discrimination among equal parties and per the related provisions of the legislation on network operation;
- ç) perform load distribution and frequency control, operate the ancillary services market and the balancing power market within the scope of its market operation license, monitor real-time system reliability, determine the necessary ancillary services in order to ensure the system reliability, and ensure the provision of electricity pursuant to the designated quality conditions and provide the relevant services in accordance with the provisions of the relevant regulation;
- d) prepare tariff proposals regarding the activities carried out under its license within the framework of the principles and standards determined by the Authority, and submit the same to the approval of the Board;
- e) observe the implementation of the applicable legislation determining the network, ancillary services and balancing and settlement operations, , perform the necessary monitoring for this purpose, report the results to the Authority and to request the necessary measures to be adopted;
- f) minimize transmission constraints, plan the transmission network to increase the quality and ensure supply security, and execute the plans approved by the Board;
- g) provide individuals and legal entities the opportunity to access and use of the system on the basis of the principle of non-discrimination among equal parties;



ğ) submit a reasoned opinion to the Authority as to whether it is possible to connect a generation facility to be established to the system within forty-five days, as requested by the Authority or the relevant legal entity;

h) enter into connection and system usage agreements with license holders and consumers connected to the transmission system;

ı) provide the transmission technical infrastructure suitable for the competitive environment in electricity generation, wholesale and retail sales in the market;

ıı) not to trade electricity and/or capacity in the market on its own name and account under any circumstance, except for the cases specified under the first paragraph of article 8 of the Law,

ııı) keep records of all individuals and legal entities connected to the transmission system, record peak requests and monitor metering records;

ıııı) within the framework of the applicable legislation, compensate the damages and losses suffered due to the system operation and detected to be caused by poor quality and/or interruptions of electricity;

ııııı) publish demand forecasts approved by the Board;

ıııııı) submit reasoned opinion to the Authority regarding import and export activities, as requested by the Authority;

ııııııı) within the framework of article 23 of the Law, publish, until April 1 of each year, capacities of regional generation facilities that can be connected to its systems based on connection points and/or on a regional basis, for the following five and ten years respectively;

ıııııııı) <sup>211</sup>ö) sign an interconnection usage agreement with supply companies or generation companies that would like to perform import and/or export activities,

ııııııııı) <sup>212</sup>p) operate the corporate information system and industrial control systems in accordance with the TS ISO / IEC 27001 Information Security Management System standard, certify its systems by way of ascertaining to a certification body accredited to the Turkish Accreditation Agency that it operates in accordance with the TS ISO / IEC 27001 standard and ensuring the validity of such documents, by referring to the ISO / IEC TR 27019 guidelines in addition to the TS ISO / IEC 27002 Implementation Guide for the Information Security Management System that it will establish according to TS ISO / IEC 27001;

ıııııııııı) <sup>213</sup>r) submit the certificates of conformity issued by a certification body accredited to the Turkish Accreditation Agency for TS EN ISO 9001, TS ISO 10002, TS 18001 and TS EN ISO 14001 standards.

ııııııııııı) <sup>214</sup>s) notify the Authority, the market operator and, in the event that the main resource is hydraulic, the DSI, until the tenth of January of the following year, of the annual generation data with regard to the auxiliary resource units installed in electricity generation facilities with multiple resources obtained from measurement systems whose provision, installation and OSOS integration are procured by the relevant generation license holder legal entity.

### **Rights and obligations of market operating license holder**

**ARTICLE 32 – (1)** Market operating license grants its holder the right to operate the organized wholesale electricity markets specified within the scope of the license, to carry out financial settlement of activities carried out in these markets, and to perform other financial transactions related to these activities.

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<sup>211</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>212</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>213</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>214</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

(2) As per its market operation license, EPIAŞ shall be entitled to:

a) conduct studies for the establishment of new markets in the organized wholesale electricity markets that are in its field of activity in line with the development of the market, and present such to the Authority;

b) if deemed appropriate by the Ministry, participate as a party to international electricity markets established or to be established in the future for the purpose of operating organized wholesale electricity markets; be a shareholder or a member of international electricity market operator organizations established for this purpose;

c) be a party to agreements within the scope of article 65 of the Capital Markets Law, in line with the opinions of the Authority and the Capital Markets Board;

ç) conduct other energy market activities determined by the Board after obtaining the opinions of the Ministry and the Capital Markets Board that are outside the scope of its market operating license and conduct activities related to emission trading;

d) provide consultancy and training services to international institutions and organizations, and provided that it is announced beforehand, provide training in respect of domestic activities within the scope of its license.

(3) In addition to those set out under the applicable legislation, EPIAŞ shall be obliged to:

a) carry out financial settlement procedures of organized wholesale electricity markets operated by TEİAŞ within the scope of its market operation license;

b) carry out financial settlement procedures regarding imbalance calculations within the framework of the applicable legislation determining balancing and settlement procedures;

c)<sup>215</sup> carry out the operation and financial settlement activities of organized wholesale electricity markets that require day-ahead, intraday and future-dated physical delivery;

ç) determine the market operating tariffs within the framework of the procedures and principles determined by the Authority and present the same to the Authority;

d) ensure the confidentiality of data provided to it in order to carry out transactions within the scope of its license and share those with the public within the framework of the procedures and principles set out under the relevant provisions of the applicable legislation;

e) keep records of license holders that supply electricity and/or capacity as well as the eligible consumers;

f) determine the fees to be paid to the central settlement agency for the services it will provide to legal entities operating in the organized wholesale electricity sales markets set out under its license;

g) obtain the prior approval of the Authority regarding any amendment to be made to its articles of association;

ğ)<sup>216</sup> operate the corporate information system and industrial control systems in accordance with the TS ISO / IEC 27001 Information Security Management System standard, certify its systems by way of ascertaining to a certification body accredited to the Turkish Accreditation Agency that it operates in accordance with the TS ISO / IEC 27001 standard, and ensure the validity of the respective documents;

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<sup>215</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>216</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 26 December 2014 and numbered 29217.

h)<sup>217</sup> submit the certificates of conformity with the TS EN ISO 9001, TS ISO 10002 and TS 18001 standards issued by a certification body accredited to the Turkish Accreditation Agency for within twenty four months following the issuance of its license;

1)<sup>218</sup> carry out market monitoring and related reporting activities in accordance with the applicable legislation regarding the organized wholesale electricity markets in which it operates or conducts financial settlement transactions;

(4)<sup>219</sup> TEİAŞ shall be obliged to operate the balancing power market and ancillary services market within the scope of its market operation license, as well as to monitor and report on these markets in accordance with the applicable legislation.

### **Rights and obligations of a distribution license holder**

**ARTICLE 33** – (1) The distribution license grants its holder the following rights:

a) Carry out distribution activities in the distribution region specified in its license,  
b) Conduct a non-market activity that will increase efficiency if performed in conjunction with distribution activities within the framework of the procedures and principles determined by the Authority,

c) Purchase electricity to be used to cover technical and non-technical losses of the general lighting and distribution system and to be able to sell in the organized wholesale electricity markets, the surplus of the energy contracted to cover the technical and non-technical losses of the system due to realizations,

ç)<sup>220</sup>

d)<sup>221</sup> Establish and operate an electricity storage facility within the framework of the conditions specified in the relevant legislation,

(2) In addition to those listed in the applicable legislation, the distribution license holder shall be obliged to:

a) Carry out the installation, maintenance and operation services for meters of the consumers connected at the distribution voltage level within the region specified in its license, to read the meters in the said region and to share the data obtained with the relevant suppliers and the market operator,

b) Take over the meters owned by existing users as of the effective date of the Law, within the framework of the applicable legislation,

c) Operate the distribution system within the region specified in its license, and maintaining a competitive environment in electricity generation and sales,

ç) Prepare the projects of the distribution facilities included in the investment plan in accordance with the investment plan approved by the Board, to make the necessary improvement, renewal and capacity increase investments and/or to build new distribution facilities,

d) Provide services to all distribution system users who are connected to and/or to be connected to the distribution system, in accordance with the provisions of the applicable legislation, without discrimination among equal parties,

e) Provide ancillary services in line with the provisions of the relevant regulation,

f) Provide the information necessary for the supply companies to fulfill their obligations set forth under the applicable legislation, upon request,

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<sup>217</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>218</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>219</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>220</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>221</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

- g) Prepare demand forecasts for the region annotated to its license within the framework of the relevant regulation,
- h) Prepare investment plans in line with the demand forecasts approved by the Board and submit them to the Board for approval,
- ı) Make investments that will ensure that the distribution service is provided at a quality in accordance with the requirements of the Law,
- i) Carry out the distribution activities within the approved borders of an organized industrial zone that does not have an OIZ distribution license,
- j) Within the framework of the applicable legislation, compensate losses and damages arising from system operation and determined to be caused by poor quality and/or interruptions of electricity,
- k) Publish capacities of the regional generation facilities that can be connected to its systems on the basis of connection point and /or regional basis, every year until April 1, for the following five and ten years, within the framework of article 23 of the Law,
- l) Not -direct eligible consumers to any supplier,
- m) In case eligible consumers want to change their suppliers, provide the necessary services and information within the framework of the applicable legislation,
- n)<sup>222</sup> Supply from EÜAŞ general lighting and energy needs arising from technical and non-technical losses,
- o) Submit relevant tariff proposals to the Authority within the framework of the provisions of the Electricity Market Tariffs Regulation,
- p) Pay the fees determined according to the transmission tariff,
- r) Keep records of all individuals and legal entities connected to the distribution system, recording peak requests and monitoring metering records,
- s) Submit reasoned opinion requested by the Authority about whether the connection to the distribution system of a generation facility to be established is possible,
- ş) Minimize the distribution system losses,
- t) Not be a direct shareholder of other legal entities operating in the market,
- u) Not include legal entities operating in the market as direct shareholders in its shareholding structure,
- ü) Fulfill the duties specified within the scope of the relevant legislation regarding unlicensed electricity generation activities,
- v) Not engage in any activity other than distribution activity, except for non-market activities that will increase efficiency in performed in conjunction with distribution activities within the framework of the principles and procedures determined by the Board,
- y)<sup>223</sup> Operate the corporate information system and industrial control systems in accordance with the TS ISO / IEC 27001 Information Security Management System standard, excluding the OIZ distribution license holders, within twenty four months from the date of its license, to certify its systems by proving to a certification body accredited to the Turkish Accreditation Agency that it operates in accordance with the TS ISO / IEC 27001 standard, and to ensure the validity of these documents, by referring to the ISO / IEC TR 27019 guidelines in addition to the TS ISO / IEC 27002 Implementation Guide in the Information Security Management System that it will establish according to TS ISO / IEC 27001,

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<sup>222</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>223</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

z)<sup>224</sup> Submit the certificates of conformity issued by a certification body accredited to the Turkish Accreditation Agency for TS EN ISO 9001, TS ISO 10002, TS 18001 and TS EN ISO 14001 standards within twenty four months from the date of its license,

aa)<sup>225</sup> notify the Authority, the market operator and, in the event that the main resource is hydraulic, the DSİ, until the tenth of January of the following year, of the annual production data obtained from measurement systems whose provision, installation and OSOS integration with regard to the auxiliary resource units installed in electricity generation facilities with multiple resources are procured by the relevant generation license holder legal entity.

(3) Distribution company shall be responsible for the general lighting in the distribution area annotated to its license within the framework of the relevant regulation, and the establishment and operation of the necessary measurement systems for them.

(4) Distribution company shall be obliged to act and make decisions independently in its business and transactions. Individuals and/or legal entities controlling the distribution company cannot interfere with the operation and management of the distribution network.

(5)<sup>226</sup> It is mandatory that the members of the board of directors of supply, generation and assigned supply companies, which are under common control with the distribution company, their general managers, and deputy general managers or even if they are employed under other titles that have signatory authorities equal to a deputy general manager or higher in terms of their powers and duties must be made up of different individuals. The managers who work at the distribution company, cannot be appointed to committees, board of directors and similar structures established within the parent company or in companies under the control of the parent company for purposes such as monitoring, coordinating, managing and auditing the distribution and retail sales and/or generation activities of the relevant parent company, or in a way that may have the same effects.

(6)<sup>227</sup> The general managers, deputy general managers and other managers having a signatory authority equivalent to or higher than deputy general managers in terms of their powers and duties even if they are not employed under the title of “deputy general manager” of the distribution company may not simultaneously be employed in other companies that provide services in relation to the electricity market, save for other electricity distribution companies that have the same shareholding structure.

(7)<sup>228</sup> The notification address annotated to the license of the distribution company may not be a place outside of the distribution region in which it operates.

### **Rights and obligations of a supply license holder**

**ARTICLE 34** – (1) A supply license grants its holder the following rights:

a) To be able to trade electricity and/or capacity with eligible consumers without any regional limitations,

b) Engaging in electricity and/or capacity trading activities with other license holder legal entities,

c) Trading electricity and /or capacity in organized wholesale electricity markets,

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<sup>224</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>225</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>226</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>227</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>228</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

ç) Subject to the positive opinion of the Ministry, to be able to import and export electricity to or from countries for which international interconnection condition has been established, with the approval of the Board,

d)<sup>229</sup> Establish and operate independent electricity storage facility or facilities within the scope of its license.

(2) The supply license grants the assigned supply company the following rights, in addition to those listed under the first paragraph and the applicable legislation:

a) Selling electricity to captive consumers in the relevant distribution region over retail sales tariffs approved by the Board,

b) Providing electricity in the relevant distribution region as the supplier of last resort.

(3) In addition to those set forth under the applicable legislation, the supply license holder shall be obliged to:

a) Submit information to TEİAŞ or the relevant distribution company about eligible consumers to whom electricity is sold,

b) Pay the fees determined according to the transmission tariff and /or distribution tariff,

c) Provide information requested by the distribution company regarding the consumers served in its region within 30 days from the date of request, provided that it is necessary for the distribution company to fulfill its obligations set forth under the applicable legislation,

(4) In addition to those listed in the third paragraph and the applicable legislation, the assigned supply company shall be obliged to:

a) Sell electricity to captive consumers located within the distribution zone annotated to its license over retail sales tariffs approved by the Board,

b) Supply electricity in the relevant distribution region as the supplier of last resort,

c) Not engage in behaviors or relationships that have a restrictive or obstructive effect on competition in the market, and to comply with the measures to be stipulated by the Board in case such behavior or relationships are detected,

ç) Fulfill the duties specified under the relevant legislation regarding unlicensed electricity generation activities,

d) Prepare tariff proposals in accordance with the procedures and principles to be determined by the Board and submit them to the Authority for approval,

e) Notify the Authority of its estimated electricity peak power demand, the volume of electricity it needs, the contracts it has made for the supply of this volume and their additional energy or capacity needs for the next five years until the end of December of every year,

f)<sup>230</sup> Supply from EÜAŞ the percentage of the electricity it provides to consumers within the scope of the supply of last resort, which will be determined by the Board every year,

g) Avoid the use of the same brand, logo and title of the parent company that may give consumers the impression that they are the continuation of the relevant distribution company in their business and transactions, and to avoid statements and declarations of this nature,

ğ)<sup>231</sup> Submit the certificates of conformity issued by a certification body accredited to the Turkish Accreditation Agency for TS EN ISO 9001, TS ISO 10002 and TS ISO / IEC 27001 standards within twenty four months from the date of its license,

(5) In the event of expiration or revocation of the license of the supplier company that is assigned as the supplier of last resort, the supplier company that will become the supplier of last

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<sup>229</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>230</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>231</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

resort for the relevant region shall be determined within the framework of the Regulation on Measures Regarding Distribution and Supply Licenses in the Electricity Market.

(6) Legal entities holding supply licenses other than assigned supply companies cannot sell electricity and / or capacity to captive consumers within the scope of their licenses.

(7)<sup>232</sup> Its supply license grants EÜAŞ the following rights:

a) Ability to sign energy purchase and sales agreements within the scope of current concession and implementation agreements,

b)<sup>233</sup> Ability to sign energy purchase and sales agreements within the scope of electricity swap, import and export agreements,

c) To make and execute bilateral agreements regarding the purchase and sale of electricity and capacity within the scope of the applicable legislation,

ç)<sup>234</sup> Ability to operate in the organized wholesale electricity markets,

d)<sup>235</sup> Supplying energy from domestic coal-fired power plants within the framework of the thirteenth paragraph of article 26 of the Law within the scope of the procedures and principles determined by the Ministry, in the event that it cannot meet the volume of electricity required to meet its obligations set forth under sub-paragraphs (a) and (b) of the eighth paragraph,

(8)<sup>236</sup> Within the scope of its supply license, in addition to those listed under the applicable legislation, EÜAŞ shall be obliged to:

a) Sell from the wholesale tariff to the assigned supply company, the percentage to be determined each year by the Board of the electricity required for consumers whose tariffs are subject to regulation,

b) Provide the energy needs of distribution companies arising from general lighting and technical and non-technical losses,

c) Perform the energy purchase and sales agreements signed pursuant to current contracts,

ç) Submit a wholesale tariff proposal to the Authority reflecting the average cost of electricity purchased and other obligations undertaken and apply it without any discrimination among equal parties following the approval of the Board,

d)<sup>237</sup> Provide energy from domestic coal-fired electricity generation plants within the framework of the thirteenth paragraph of article 26 of the Law through procedures and principles determined by the Ministry, in case the electricity required to meet the obligations specified in sub-paragraphs (a) and (b) of this paragraph cannot be met under existing contracts,

(9)<sup>238</sup> The board of directors members, general managers and deputy general managers and other managers having a signatory authority equivalent to or higher than deputy general managers in terms of their powers and duties even if they are not employed under the title of “deputy general manager” of the assigned supply company and supply license holder legal entities under common control with the assigned supply company, shall be composed of different persons.

(10)<sup>239</sup> The general managers, deputy general managers and other managers having a signatory authority equivalent or higher than deputy general managers in terms of their powers and duties even if they are not employed under the title of “deputy general manager” of the assigned

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<sup>232</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>233</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 June 2017 and numbered 30091.

<sup>234</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>235</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>236</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>237</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>238</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774

<sup>239</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774

supply company may not simultaneously be employed in other companies that provide services related to the electricity market, save for other assigned supply companies that have the same shareholding structure.

(11)<sup>240</sup> The assigned supply company is obliged to establish and operate a website separate from other companies, including its parent company, regarding its activities, particularly those activities whose tariff is subject to regulation within the scope of its license.

### **Postponement, suspension and removal of obligations**

**ARTICLE 35** – (1) In cases of occurrence of events of force majeure, obligations of pre-license and license holders arising out of the applicable legislation may be postponed or suspended by the decision of the Board, to the extent they are affected, and until such time when the effects of the event of force majeure are eliminated. In cases where it is determined that such obligations cannot be fulfilled, the Board may also decide to remove the obligation of the pre-license and license holder. Removal of obligations regarding transmission and distribution activities cannot be requested.

(2) In order for an event to be considered as force majeure, it is necessary that the incident cannot be prevented, avoided and predicted despite the affected party having shown the necessary care and attention and having taken all the precautions and this situation should prevent the affected party from fulfilling its obligations set forth under the applicable legislation.

(3) The following situations shall be considered as events of force majeure, without limitation:

- a) Natural disasters and epidemics,
- b) War, nuclear and chemical fallout, mobilization, civil unrest, aggression, terrorist acts and sabotage,
- c) Strikes, lockouts or other officer or worker actions.

(4)<sup>241</sup> In order for a decision to be adopted to postpone, suspend or remove the obligations under the applicable legislation, the pre-license or license holder must submit to the Authority in writing or electronically through the EMRA Application System:

- a) The starting date and nature of the event of force majeure,
- b) Its effects on its obligations under the applicable legislation,
- c) If possible, the estimated remediation period of the effects,

(5) Requests within the scope of this article shall be concluded with the decision of the Board within sixty days following the completion of the required information and documents regarding the application.

### **Transfer of rights and obligations under license**

**ARTICLE 36** – (1) The rights of license holders who are carrying out activities that are subject to tariff regulation cannot be transferred, assigned or pledged to third parties without the permission of the Board. The application made for Board permit shall be evaluated in accordance with the provisions of Article 21 of this Regulation, and the evaluation report prepared shall be submitted to the Board and concluded with a Board decision.

## **CHAPTER SEVEN**

### **Measurement Standard for Wind and Solar Energy Based Pre-license Applications**

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<sup>240</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774

<sup>241</sup> Amended pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.



### **Obligation for wind and solar measurements**

**ARTICLE 37 – (1)**<sup>242</sup> For pre-license applications to establish a wind energy based generation facility, excluding the applications to be made for YEKA and the applications within the scope of electricity generation facility with storage, it is mandatory to take measurements on the site where the facility will be established, for a duration of at least one year, collected within the last eight years, in accordance with the conditions set out in this Chapter. For pre-license applications to establish a solar energy based generation facility, excluding the applications to be made for YEKA and the applications within the scope of the electricity generation facility with storage, it is mandatory to take measurements on the site where the facility will be established, for a duration of at least one year, 6 months of which must be on site, collected within the last eight years, in accordance with the conditions set out in this Chapter. Along with the pre-license applications based on wind and solar energy, Measurement Station Installation Report and Measurement Result Report as set forth under the “Procedures and Principles Regarding Applications related to Pre-license and License Procedures” shall be submitted to the Authority electronically by the MGM or the relevant accredited organization.

(2) It is the responsibility of the relevant legal entity to obtain the necessary site permits for the establishment of a measurement station as specified in this Chapter on the site that the measurement will be made. These permits shall be obtained by the relevant legal entity before applying to the MGM or an Accredited Organization and shall be added to the application file.

### **Wind and solar measurements representing the site**

**ARTICLE 38 – (1)** The measuring station must be located on the power plant site where a wind or solar energy based generation facility will be established and for which a pre-license application is made. If more than one measurement station is requested to be installed on the same site, the arrangement to avoid measurement stations affecting each other shall be made by the MGM.

### **Structure of wind and solar measurement stations**

**ARTICLE 39 – (1)** Regarding the wind energy based generation facilities;

a) Measuring station consists of wind speed sensor, wind direction sensor, temperature sensor, pressure sensor, relative humidity sensor and measurement recorder. The height of the wind measurement mast shall be at least 60 meters. Wind measurements shall be made on at least two levels, one at 30 meters and the other at the top of the mast. In addition to the measurements made at these two levels, the applicant may also take wind measurements at different levels. Pressure, temperature and humidity measurements shall be made at a height of at least 3 meters. In addition to the measurements made at a height of 3 meters at least, the applicant may also take pressure, temperature and humidity measurements at different levels.

b) The measurements made shall be forwarded online to THE MGM or the relevant Accredited Organization, without any intervention that will change the measurement data. Data shall be transmitted automatically to the e-mail address or terminal to be determined by the MGM or the relevant Accredited organization by the data recorder at a certain time of the day.

c) All recorded measurement data shall be submitted electronically to the MGM or the relevant Accredited Organization in their original form, at certain time intervals or at the end of the

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<sup>242</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

measurement period, without any intervention to change the data. The applicant is responsible from the accuracy and reliability of the data to be submitted in this context.

(2) Regarding solar energy based generation facilities;

a) Measurement data shall be made available in accordance with the following principles for pre-license applications based on solar energy:

1) Solar radiation measurement sensor (pyranometer) and insolation sensor in accordance with TS ISO 9060 or ISO 9060 standard shall be used in the solar measurement station located in the site where the facility subject to the pre-license application will be established. The measuring station shall also have a temperature sensor, relative humidity sensor, wind speed and wind direction sensor and a measurement recorder.

2) The total solar radiation in one square meter of the earth's horizontal plane is measured and recorded on a minute or ten minute basis with the pyranometer installed at a height of 2 to 5 meters.

3) Hourly totals of the measurements taken per minute with the insolation sensor installed at a height of 2 to 5 meters shall be recorded.

4) The certificate of conformity of the solar measurement sensors used in the measurement station to the TS ISO 9060 or ISO 9060 standard, up to date calibration certificate and similar documents shall be included in the application file.

b) The measurements made shall be forwarded to the MGM or the relevant Accredited Organization online without any intervention that will cause a change on the measurement data. Data shall be transmitted automatically to the e-mail address or terminal to be determined by the MGM or the relevant Accredited Organization by the data recorder at a certain time of the day.

c) All recorded measurement data shall be submitted electronically to the MGM or the relevant Accredited Organization at certain time intervals or at the end of the measurement period, without any intervention to change the data. The applicant is responsible from the accuracy and reliability of the data to be submitted in this context.

(3) It is the responsibility of the MGM or the relevant Accredited Organization to keep in confidence and protect data submitted to the MGM or the relevant Accredited Organization within the scope of the provisions of this Chapter, as well as any information that is a trade secret by nature.

#### **Commencement of wind and sun measurements**

**ARTICLE 40** – (1)<sup>243</sup> The MGM or the relevant accredited organization shall be authorized to approve the Wind Measurement Station Installation Report and Solar Measurement Station Installation Report set forth under the "Procedures and Principles regarding Applications related to Pre-License and License Procedures", provided that on-site inspection is carried out, and the date of approval of the report shall be considered to be the commencement date of wind or solar measurement.

(2) Wind Measurement Result Report and Solar Measurement Result Report shall be jointly approved by the MGM or the relevant Accredited Organization and the legal entity who will apply for a pre-license.

#### **Wind and solar measurement period**

**ARTICLE 41** – (1) It is mandatory to take measurements within the scope of the first paragraph of Article 37 for at least one year at the wind and solar measurement stations.

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<sup>243</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

2) Data loss due to operation and/or maintenance or other reasons cannot be more than 20 percent, within a year measurement period. In cases where data loss is up to 20 percent, the data lost shall be obtained by using one of the statistical data completion methods (interpolation and similar) by relying on the data to be obtained from one or more meteorology stations to be determined by the MGM that can represent the existing data or the field of activity.

(3) One of the statistical data completion methods (interpolation and similar) can be used for measurement data that is considered to be abnormal, provided that it is within the 20 percent data loss limit.

### **Recording structure of wind measurement data**

**ARTICLE 42** – (1) the following items measured /calculated at wind measurement stations in five seconds or less;

- a) Average, standard deviation, minimum and maximum for wind speed,
  - b) Average and standard deviation for wind direction,
  - c) Average, minimum and maximum for other parameters
- shall be recorded at one or ten minute intervals.

## **CHAPTER EIGHT Financial Provisions**

### **License fees**

**ARTICLE 43** – (1) The fees for obtaining pre-license and license, annual license, license renewal, pre-license and license amendment, issuing copies of pre-license and license that legal entities operating in the market must deposit to the bank account of the Authority and will apply for the following year shall be determined by the Board until the end of December of each year, and published in the Official Gazette and announced on the website of the Authority.

(2)<sup>244</sup> Pre-license and license fees are fixed according to the field of activity and/or the size of the activity, and the annual license fees are determined relative to the fields of activity and the volume of electricity generated, transmitted, distributed, stored, wholesale or retail sale, and paid according to the provisions of this Regulation.

(3)<sup>245</sup> Pre-license and license, license renewal, pre-license and license copy, and pre-license and license amendment fees shall be paid in advance. If several applications are made with the same petition or electronically on the same day, separate amendment fees shall be charged for the amendments to be concluded separately by the Board and the relevant primary service unit within the scope of the said application.

(4)<sup>246</sup> For generation facilities based on domestic natural resources and renewable energy resources, no annual license fee shall be collected for the first eight years following the first date of partial or full acceptance of the generation facility.

(5)<sup>247</sup> First annual license fee,

a)<sup>248</sup> In terms of generation licenses, shall be calculated according to the volume of electricity generated following the date of partial or full acceptance of the generation facility to December 31

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<sup>244</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>245</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>246</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>247</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>248</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

of that year. For the following years, the annual license fee shall be calculated over the volume of electricity generated during the previous year.

b) In terms of other licenses, shall be calculated over the volume of electricity that has been subject to licensed activity within the framework of the relevant license between the date of issuance of such license and December 31 of this year. For the following years, the annual license fee shall be calculated over the volume of electricity that has been subject to licensed activity within the framework of the relevant license during the previous year.

(6) The generation facility shall be deemed completed on the date of provisional acceptance.

(7) Annual license fees shall be deposited to the Authority's account in three equal installments within the first five working days of;

a) February, June and October of each year, for generation licenses,

b) March, July and November of each year, for supply licenses,

c) April, August and December of each year, for distribution licenses,

ç) January, May and September for the transmission license and market operation license of TEİAŞ and the market operation license of EPIAŞ.

(8) If the annual license fees are not deposited to the Authority's bank account within the required period, the default interest rate determined in accordance with article 51 of the Law No. 6183 on the Procedure for Collection of Public Receivables shall be applied to the amount payable.

(9)<sup>249</sup>In case of amendments to extend the facility completion periods of generation licenses, the amount equal to the license fee valid as of the current year for the facility subject to the license shall be charged as the license amendment fee. This provision shall be applied by considering the amount of installed capacity not in operation and subject to the extension for generation facilities that are in partial operation, and the amount of capacity increase in terms of capacity increases. In case of amendments regarding the extension of pre-license periods, the entire pre-license fee shall be charged as the amendment fee.

(10)<sup>250</sup> In the event that pre-license and license applications that have been taken into evaluation and the amendment applications of the aforementioned pre-license and licenses are rejected or the said applications are withdrawn, the pre-license or license fees and amendment fees paid to the Authority shall not be refunded.

(11)<sup>251</sup> Legal entity whose license termination request is deemed appropriate shall be obliged to submit a document proving that the annual license fee has been paid to the Authority within the scope of the second paragraph, within the period specified in the relevant Board decision.

(12)<sup>252</sup> Pre-license and license amendment fees are not charged for amendments required by legislative changes and legislative implementations.

(13)<sup>253</sup> The fees for pre-license or license and amendment shall be based on the fees valid at the time that the information and documents related to the application are submitted to the Authority in their entirety.

(14)<sup>254</sup> A single license amendment fee shall be charged for amendment requests regarding common provisions in pre-licenses and/or licenses owned by a legal entity, provided that they are submitted under the same application.

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<sup>249</sup> Amended pursuant to the Regulation published in the Official Gazette dated 15 December 2017 and numbered 30271.

<sup>250</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>251</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>252</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>253</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>254</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

(15)<sup>255</sup> For combined renewable electricity generation facilities and combined electricity generation facilities, license fees are evaluated together with the main resource, by adding the installed capacity of the main resource to the auxiliary resource.

(16)<sup>256</sup> For license amendment applications that are required to be made within the scope of the second paragraph of article 57, license amendment fee shall be increased three fold, if shareholding structure changes are made without obtaining an approval, despite an approval being required, and a license amendment application is made within the calendar year in which such change took place; or such change is approved or it is not subject to approval, and a license amendment application is made in the calendar year after which the period to make such license amendment application has expired. For each subsequent calendar year of delay, the fee shall be increased one-fold. Within the scope of the first and second paragraphs of Article 57, if the notification obligation regarding changes to shareholding is not fulfilled within the specified period, a fee equal to the amendment fee shall be applied.

(17)<sup>257</sup> In the event that the relevant legal entity completes the merger or demerger process within the period given to it within the scope of the tenth paragraph of article 59, yet does not timely complete its obligations, the license fee shall be increased one-fold.

(18)<sup>258</sup> In electricity generation facilities with storage, the total installed mechanical capacity of the generation facility and the installed capacity of the electricity storage unit shall be aggregated and evaluated together in determining the license amendment fees for the amendments within the scope of extension of the pre-license term and extension of the facility completion period in generation licenses.

(19)<sup>259</sup> A separate amendment fee shall be charged for each independent electricity storage facility to be added to the supply license.

### **Separation of accounts and ban on cross subsidies**

**ARTICLE 44 –** (1) Legal entities whose tariff is subject to regulation shall be obliged to keep separate accounts and records for:

a) Each activity the tariff of which is subject to regulation and for each region where this activity is restricted to under its license,

b) For the non-market activity, in the event that a non-market activity is carried out in conjunction with the market activity to increase efficiency.

(2) The assigned supply company shall keep separate accounts for retail sales activity and retail sales service, and cannot make cross subsidies between these accounts.

(3) The assigned supply company shall be obliged to keep its accounts in accordance with the Electricity Distribution Sector Regulatory Chart of Accounts approved by the Board.

(4) License holder who carries out activities subject to tariff regulation cannot establish a cross subsidy:

a) With its establishment, subsidiary, affiliate or its shareholder,

b) With another company under the umbrella of the same holding or group of companies,

c) Among market activities,

ç) Between market activities and non-market activities.

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<sup>255</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>256</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>257</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 14 May 2020 and numbered 31127.

<sup>258</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>259</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

### **Refund and forfeit of guarantee<sup>260</sup>**

**ARTICLE 45<sup>261</sup>** – (1) In pre-license applications, the guarantee submitted to the Authority within the scope of article 12,

a) shall be returned to the relevant legal entity in the following cases:

1) Without prejudice to the provision of sub-clause (6) of subparagraph (b), withdrawal of the pre-license application or rejection of the pre-license application.

2)<sup>262</sup> The expiration or termination of the pre-license for a reason not attributable to the legal entity holding the pre-license.

b) is forfeited in the following cases:

1) If the pre-license holder does not apply for a generation license within the period specified in article 20.

2) If the pre-license holder does not fulfill its obligations during the pre-license period.

3) The termination of a pre-license upon request of the legal entity holding the pre-license or its revocation by a Board decision, except for the cases specified in the sub-paragraph (2) of subparagraph (a) of this paragraph.

4) It is resolved to deem the license application not made within the scope of article 21.

5) Withdrawal of the application after the license application has been taken into evaluation, or the rejection of the application for reasons other than events of force majeure and justified reasons not attributable to the applicant.

6) In case of pre-license applications based on wind and solar energy, legal entities who obtained the right to connect as a result of the competition held by TEİAŞ, withdraw from the pre-license application for reasons other than events of force majeure and justified reasons not attributable to the applicant or rejection of the pre-license application.

7)<sup>263</sup> Termination of the pre-license granted for YEKA except in cases of events of force majeure or revocation by a Board Decision.

(2) In license applications, the guarantee submitted to the Authority within the scope of Article 20 is returned in the following cases:

a) In case the license application is withdrawn or the application is rejected.

b) The generation facility subject to license;

1) is provisionally accepted as a whole, and the same is documented,

2) partial provisional acceptance has been made, and the same is proved, provided that a new guarantee determined in accordance with Article 20 is submitted to the Authority for the part for which provisional acceptance is not yet made.

(3)<sup>264</sup> In relation to generation licenses, the guarantee submitted to the Authority within the scope of article 20 shall be forfeited, except for events of force majeure and just causes not attributable to the license holder, if;

a) The generation facility is not established within the construction period specified in the license,

b) It is determined that the generation facility cannot be established within the remaining period,

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<sup>260</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>261</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>262</sup> Amended pursuant to the Regulation published in the Official Gazette dated 15 December 2017 and numbered 30271.

<sup>263</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>264</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

c) The license is canceled for any reason before provisional acceptance of the generation facility is made.

d)<sup>265</sup> In electricity generation facilities with storage, where the electricity storage unit undertaken to be established is not established within the period specified in its license or it is determined that it cannot be installed within the remaining period.

The provisions of this clause are applied to generation licenses issued for YEKA only with respect to events of force majeure.

(4) In case of a request to amend a pre-license or license by reducing the installed capacity that has been annotated to the pre-license or license;

a) If the justification of the request for amendment is found to be within the scope of events force majeure or circumstances deemed appropriate by the Board, the existing guarantee shall be returned, provided that the new guarantee corresponding to the installed capacity to be annotated to the pre-license or license as a result of the amendment is submitted to the Authority.

b) Except for the cases specified in subparagraph (a), the guarantee submitted to the Authority shall not be returned during the pre-license period or until the provisional acceptance of the generation facility.

(5)<sup>266</sup> In case of a request to amend the pre-license or generation license by reducing the installed capacity of a pre-license or generation license granted for YEKA, if the justification of the request for amendment is within the scope of events of force majeure, as a result of the amendment, the existing guarantee shall be returned, provided that new guarantee corresponding to the installed capacity to be annotated to the pre-license or generation license is submitted to the Authority. In other cases, a portion of the guarantee corresponding to the installed capacity reduction is forfeited. The provisions of fourth paragraph shall not apply to pre-license and generation licenses issued for YEKA.

(6)<sup>267</sup> In the event that the unit established based on the auxiliary source in a combined renewable electricity generation facility and a combined electricity generation facility commences operation before the unit based on the main resource starts operating, the guarantee submitted to the Authority for the unit based on the auxiliary resource shall not be returned until the unit based on the main resource becomes operational.

(7)<sup>268</sup> The guarantee submitted to the Authority at the pre-license application stage for the electricity generation facility with storage shall not be returned until the license is obtained. The guarantee submitted in the license application regarding the electricity storage unit of the electricity generation facility with storage shall not be returned until the entire electricity storage unit in question is fully operational.

### **Expropriation, establishment of easement right, usage right or lease**

**ARTICLE 46<sup>269</sup>** – (1) A private legal entity holding a pre-license and generation license may apply to the Authority for the following, if it is directly related to its activity;

- a) Expropriation procedures,
- b) Establishment of easement right,
- c) Usage right,
- ç) Lease,

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<sup>265</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>266</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>267</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 8 March 2020 and numbered 31062.

<sup>268</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>269</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

d) Adoption of a decision to transfer immovables belonging to public institutions and organizations other than immovables owned by the Treasury,

e) Change in the purpose of allocation of meadow,

Holders of pre-license and generation licenses issued for YEKA cannot make requests within the scope of this paragraph for factories, R&D facilities and similar buildings to be constructed pursuant to the YEKA Regulation.

(2)<sup>270</sup> The expropriation requests of private legal entities holding a pre-license or license engaged in generation activities in the electricity market, including the electricity storage unit established within the electricity generation facility with storage and electricity storage units adjoined to the generation facility, regarding the immovable property that are required for their activities subject to pre-license and license and which are privately owned shall be evaluated by the Authority, and if deemed appropriate, a decision shall be made by the Board. The expropriation procedures required within the framework of the said decision shall be concluded within the framework of the first paragraph of Article 19 of the Law. Article 19 of the Law regarding land acquisition or establishment of utilization right shall not apply to independent electricity storage facilities and facilities related to the connection of these facilities.

#### **Obligation to secure facility assets**

**ARTICLE 47** – (1) Licensed legal entities shall be obliged to secure the facility assets related to their activities in order to protect them against possible risks according to their activity types.

(2) In this context, licensed legal entities shall be obliged to secure their generation, transmission and distribution facilities against natural disasters, fire, accident, theft, financial liability against third parties, terrorism and sabotage.

(3) The application of such security shall be carried out within the framework of procedures and principles prepared separately as follows, and shall be approved by the Board;

a) By TEİAŞ for electricity transmission facilities,

b) By TEDAŞ for electricity distribution facilities,

c) By EÜAŞ for generation facilities within EÜAŞ, for generation facilities transferred by Subsidiaries and EÜAŞ through the transfer of operating rights . Elements that will affect the cost such as the form of security, the amount of security to be applied, and the exemptions shall be included in the procedures and principles prepared.

(4) License holder legal entities may insure themselves against other dangers as well. For legal entities subject to tariff regulation, it is possible to reflect to their tariffs those costs arising out of taking out insurances to cover dangers other than the ones specified in the second paragraph, provided that Board approval is obtained.

(5) For generation facilities established within the scope of international agreements, the provision of this article shall not apply to the facilities in question, if it is stipulated in the relevant agreement to insure the facility in question.

#### **Procurement of services**

**ARTICLE 48** – (1) License holder legal entities may purchase services related to activities covered by their licenses.

(2) Distribution companies cannot purchase services for the following matters regarding the activities covered by their licenses:

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<sup>270</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018



a) Determining on a yearly basis, capacities of regional generation facilities that can be connected to their systems for the following five and ten years within the framework of Article 23 of the Law,

b)<sup>271</sup> Issuing opinions regarding the project approval and acceptance procedures in accordance with the legislation regarding the operation of SCADA, the connection of generation and consumption facilities to the distribution system and fulfilling the obligations within the scope of the Service Quality Regulation on Electricity Distribution and Retail Sales published in the Official Gazette No. 28504,

c) Performing transactions related to the process until the signing of the contract with the contractor and /or supplier relating to construction works and procurement of goods and services, such as preparation of tender documents and evaluation of offers,

ç)<sup>272</sup> Business and transactions of user service centers other than call center services for consumers and collection procedures.

(3)<sup>273</sup> Assigned supply companies may purchase the following services;

a) For billing and collection transactions and call center services of consumer services centers for consumers,

b) For all activities of consumer service centers in districts with a population below fifty thousand.

The assigned supply companies shall make their service supply practices compliant with the provisions of this paragraph until the end of the following year by taking into account the population figures published by the Turkish Statistics Institute every year.

(4) Distribution companies and assigned supply companies may purchase services within the scope of this article, provided that they do not contradict the regulations determined within the framework of legal unbundling of distribution and retail sales activities, and that they do not contradict with the provisions of this Regulation and other applicable legislation.

(5) Procurement of services regulated within the scope of this article shall not mean the transfer of the obligations of the relevant license holder legal entity arising out of its license.

## **CHAPTER NINE Other Provisions**

### **Request for opinion**

**ARTICLE 49** – (1) An application may be filed with the Authority for guidance in order to eliminate uncertainties or interpretation differences arising in the implementation of applicable legislation.

### **Market constraint**

**ARTICLE 50** – (1) The total volume of electricity that any individual or private sector legal entity can generate through generation companies they control cannot exceed twenty percent of the total electricity generation volume of Turkey, published in the previous year.

(2)<sup>274</sup> The total volume of electricity to be purchased by private sector legal entities holding a supply license from generation license holders, other legal entities holding a supply license that are engaged in import activities and through imports cannot exceed twenty percent of the volume

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<sup>271</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>272</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>273</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>274</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

of electricity consumed within the country in the previous year. In addition, the volume of electricity to be sold by the said private sector legal entities to end consumers cannot exceed twenty percent of the volume of electricity consumed within the country in the previous year. However, the volume of energy that the assigned supply company is obliged to purchase within the scope of the applicable legislation regarding unlicensed electricity generation shall not be taken into account in the calculation of these ratios.

(3) License holders within the scope of the second paragraph of provisional Article 7 of the Law may sell in the market no more than twenty percent of the annual electricity generation volume annotated to their licenses within a calendar year. The Board may increase this ratio by obtaining the opinion of the Ministry, exclusively for cases that may be needed in terms of supply security. However, the volume of excess electricity fed into the system or electricity not generated as a result of the load take on and take off instructions for balancing and / or emergency situations by legal entities that are generating electricity based on renewable energy sources licensed within the scope of this clause shall not be taken into account in the calculation of the said ratio.

### **Indirect shareholding**

**ARTICLE 51** – (1) Indirect shareholding relationship is to be considered in the presence of at least one legal entity shareholder in the shareholding structure. The following principles shall be applied in determining indirect shareholding;

a) In determining the indirect shareholding ratio of a legal entity, the declaration of the said legal entity shall be taken as basis.

b) In determining the indirect shareholding ratio of an individual, the shares belonging to this individual and his/her spouse and children or the partnerships which these persons separately or jointly control the share capital or management of shall be taken into account collectively. In determining the indirect shareholding of a legal entity, the shares belonging to such legal entity and the shares belonging to companies whose share capital or management is controlled by such legal entity shall be calculated together.

c)<sup>275</sup>

(2) Indirect shareholding relationship shall not be considered for state economic enterprises and their subsidiaries.

### **Reporting**

**ARTICLE 52** – (1)<sup>276</sup>

(2)<sup>277</sup> Legal entities licensed to engage in generation activities shall be obliged to submit to the Authority progress reports in the form determined by the Authority regarding activities they have carried out until the acceptance of the entirety of the total facility installed capacity annotated to their license is made, within July and January of each year, respectively for the first and second half of the year. The said obligation shall commence in the current period if the period between the date the license is granted and the submission date for the first progress report is more than 90 days, otherwise in the subsequent period.

(3)<sup>278</sup> If requested by the Authority, distribution companies and assigned supply companies shall be obliged to notify the Authority of the measures they have adopted in order to comply with the provisions set forth under this Regulation and the applicable legislation within the framework

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<sup>275</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 14 May 2020 and numbered 31127.

<sup>276</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>277</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>278</sup> Amended pursuant to the Regulation published in the Official Gazette dated 15 December 2017 and numbered 30271.

of legal unbundling, along with information and documents evidencing the same, in the format determined by the Authority. The monitoring activities carried out by the Authority during the year and the aforementioned notifications shall be evaluated together and, if necessary, additional measures to be adopted for the effective implementation of legal separation shall be presented to the Board.

(4)<sup>279</sup> Licensed legal entities shall make their notifications to the Authority regarding their activities in accordance with the provisions of the Energy Market Notification Regulation published in the Official Gazette dated 27/5/2014 and numbered 29012.

### **Monitoring**

**ARTICLE 53** – (1) Monitoring of the activities and practices of legal entities operating in the electricity market within the scope of applicable legislation shall be carried out by the Authority. The procedures and principles regarding monitoring to be made by the Authority shall be determined by the Board.

### **Inspection and audit**

**ARTICLE 54** – (1) The inspection and audit of the activities and practices of legal entities operating in the electricity market within the scope of the Law shall be carried out by the Authority.

(2) In carrying out the inspection and audit obligation within the scope of the first paragraph, the Authority may purchase services from companies it will authorize to carry out inspection, detection and reporting in accordance with applicable legislation, in a manner that is not binding for the Authority in terms of its results and does not include sanctions.

(3) Periodic inspection and audit within the scope of the applicable legislation of the activities and practices of electricity distribution companies defined by law, shall be carried out by the Ministry. However, apart from periodic inspection and audit, inspection and audit of the activities and practices of distribution companies within the scope of the applicable legislation may be carried out by the Authority if deemed necessary by the Authority within the framework of articles 9 and 16 of the Law.

### **Privacy**

**ARTICLE 55** – (1) The Authority cannot disclose information or documents that may harm the commercial relations of a pre-license or license holder if published, except for decisions of the following:

- a) Judicial authorities,
- b) Right to Information Assessment Board.

(2) Pre-license or license holder legal entities shall be obliged to keep confidential information such as

- a) Confidential competition information
- b) Trade secrets

they came into possession through market activities or other means about other legal entities operating in the market, their customers or suppliers, which may damage business relations if they are disclosed and shall be obliged not to disclose these to third parties, including legal entities that are its affiliates or shareholders.

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<sup>279</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

(3) A legal entity whose license has expired or whose license has been revoked shall be obliged to keep the information of other legal entities within the scope of the second paragraph confidential for five years.

### **Dispute resolution**

**ARTICLE 56** – (1) If TEİAŞ and /or distribution license holders and related legal entities failing to agree on the implementation of the terms of the connection and system use agreement or the amendments to be made in such agreements may first apply to the Authority for the resolution of disputes. The said application shall be concluded by the Board in accordance with the provisions of the applicable legislation and within sixty days from the date of application.

(2) In an emergency notification, a licensed legal entity claiming that TEİAŞ intervened in the market operations more than the emergency situation requires and /or applied preventive measures for a period longer than is necessary, shall apply to TEİAŞ first. If the application made to TEİAŞ is not answered within thirty days or if the response does not resolve the complaints, the legal entity may apply to the Authority.

(3) The Board may propose amendments to the Existing Contracts for consideration by the parties on matters that will facilitate the transition to the competitive market pursuant to the provisions of the Law and may try to settle disputes via mediation before any formal dispute settlement process is initiated regarding these contracts, provided that they do not violate the provisions of the existing contracts governing the settlement of disputes.

### **Share transfers**

**ARTICLE 57** – (1)<sup>280</sup> Until a license is obtained, except for reasons of inheritance and bankruptcy, acts and transactions that will result in change of the shareholding structure of a legal entity holding a pre-license directly or indirectly, transfer of shares or that would result in transfer of the shares cannot be carried out. This provision shall not apply to the following:

a) Changes in the shareholding structure of public legal entities and legal entities with a publicly traded legal entity shareholder, resulting from the shares of the said shareholder, limited to its publicly traded shares,

b) Legal entities given pre-license for facilities foreseen to be established within the scope of international agreements,

c) Indirect shareholding changes that occur in the shareholding structure of a legal entity holding a pre-license due to changes in the shareholding structure of its shareholders established abroad,

ç) Direct or indirect changes in the shareholding structure of a legal entity holding a pre-license, within the scope of the public offering of the shares of the legal entity's direct or indirect legal entity shareholders,

d) Direct or indirect changes in the shareholding structure of a legal entity holding a pre-license due to the share transfer between the existing shareholders of such legal entity holding a pre-license, due to the use of subscription rights of the shareholders,

e) Changes that cause all indirect shareholders to become shareholders without changing the share ratios of the legal entity holding a pre-license, and changes that result in all direct shareholders becoming indirect shareholders without changing their share ratios,

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<sup>280</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

f) Changes in the shareholding structure of a legal entity holding a pre-license directly or indirectly due to the sale or transfer of the public shares of such legal entity participating in the privatization program,

g)<sup>281</sup> Direct or indirect share transfers made in a manner that does not create a change of control in the shareholding structure of the legal entity holding a pre-license,

ğ) Direct or indirect shareholding structure changes in the shareholding structure of legal entities holding a pre-license, more than half of the share capital of which are directly or indirectly owned by public institutions and organizations, on the condition that new shareholders are not introduced other than the shareholder with the characteristics of public institutions and organizations, resulting from share capital increase and/or change of shareholders,

h) Within the scope of the provisions of the Turkish Commercial Code numbered 6102, the direct or indirect changes in the shareholding structure of a legal entity holding a pre-license, as a result of direct and indirect acquisition of their own shares by such legal entity and shareholders of such legal entity,

ı) Direct or indirect share acquisitions in a legal entity holding a pre-license by using foreign resources, carried out by legal entities established abroad or by legal entities controlled by these legal entities and established pursuant to the Turkish Commercial Code numbered 6102,

ii) Direct or indirect changes in the shareholding structure of a legal entity holding pre-license, as a result of the share transfers between the spouses and individuals who have a direct or indirect share in the shareholding structure of such legal entity with first degree blood kinship,

j) Direct or indirect changes in the shareholding structure of a legal entity holding a pre-license whose management was seized by the Savings Deposit Insurance Fund,

k)<sup>282</sup> Direct and / or indirect changes in the shareholding structure of a legal entity holding a pre-license issued for YEKA,

The changes within the scope of this paragraph shall be notified to the Authority within six months from the date of their realization via the EMRA Application System.

(2)<sup>283</sup> The acquisition of shares representing ten percent or more of the share capital for licensed legal entities engaging in an activity whose tariff is subject to regulation, and five percent or more in companies whose shares are publicly traded, directly or indirectly by an individual or a legal entity, and share transfers resulting in change of control in the shareholding structure of the legal entity other transactions that would have the same result, irrespective of the share capital changes mentioned above, or establishing a pledge on the shares and an account pledge on the accounts of said licensed legal entities, and providing suretyship shall be subject to Board approval each time. In addition, direct share changes in the shareholding structures of legal entities holding a market operating license, representing 4% or more of the capital of said legal entity, shall be subject to Board approval and direct share changes representing less than 4% shall be notified to the Authority through EMRA Application System within one month from the date of the said changes, regardless of the share capital changes mentioned above. However, direct or indirect share changes that arise due to the use of the subscription right and do not change the control structure shall not be subject to approval. If the share transfer is not completed within six months from the date of approval, the approval given shall become void. It is mandatory to request a license amendment within three months from the date of completion of the share transfer. The provisions of this paragraph shall not apply to changes in the shareholding structure of legal entities whose

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<sup>281</sup> Amended pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>282</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 16 February 2019 and numbered 30688.

<sup>283</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

shares are publicly traded and to legal entities that have a legal entity shareholder whose shares are publicly traded, only with respect to the shares of the said shareholder that are publicly traded. It is mandatory to notify the Authority of other changes that do not require approval within the scope of this paragraph and, if necessary, to request a license amendment within six months from the date of such change. As for legal entities holding a license whose tariff is not subject to regulation; the changes within the scope of this paragraph shall be notified to the Authority within six months from the date of their realization via the EMRA Application System.

(3) Approval shall be given on the condition that the individual or legal entity who will take over the share meets the conditions sought for shareholders of the legal entity during the license application.

(4)<sup>284</sup> Applications for the transfer of shares are made by submitting the information and documents required to be submitted in accordance with the “Procedures and Principles regarding Applications related to Pre-License and License Transactions” to the Authority via the EMRA Application System.

(5) The Authority may request additional information and documents that it may require during the evaluation for approval from the individuals or legal entities who are parties to the share transfer.

(6) For foreign nationals, the provisions of this article shall be applied by way of analogy.

(7)<sup>285</sup>

(8)<sup>286</sup>

### **Notifications**

**ARTICLE 58** – (1) The provisions of the Notification Law dated 11/2/1959 and numbered 7201 shall apply to any notifications to be made by the Authority in accordance with this Regulation, except for notifications to be made by publication in the Official Gazette.

### **Merger and demerger**

**ARTICLE 59** – (1)<sup>287</sup> It is mandatory to obtain the approval of the Board before the merger transaction takes place, if a license holder wishes to merge all of its assets and liabilities, regardless of either itself or another legal entity being the surviving entity in such transaction.

(2) It is mandatory to obtain the approval of the Board before the demerger takes place, if a licensed legal entity wishes to demerge in whole or in part.

(3)<sup>288</sup> Applications for merger and demerger shall be made by submitting the information and documents required to be submitted in accordance with the “Procedures and Principles regarding Applications Related to Pre-License and License Transactions” to the Authority via the EMRA Application System.

(4) The draft of merger or demerger contract cannot contain provisions that violate the rights and receivables of consumers and remove the liabilities of the license holder. As a minimum, the legal entity or entities that will terminate following the merger or demerger shall be designated in the draft merger or demerger agreement.

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<sup>284</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>285</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>286</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>287</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>288</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

(5) The following information and documents are requested in applications made to the Authority for merger or demerger permission;

- a) Draft of the merger or demerger contract,
- b)<sup>289</sup> Copies of the decisions adopted by the board of directors of the legal entities regarding the merger or demerger,
- c) The draft articles of association of the transferee legal entity following the merger or demerger,
- ç) A report evaluating the objectives expected from the merger or demerger.
- d)<sup>290</sup> For generation licenses issued for YEKA, written approval to be obtained from the Ministry until the generation facility subject to the license commences operation.

(6) The share capital of the transferee legal entity, which shall be formed following the merger or demerger, must meet the share capital requirement set forth under this Regulation.

(7)<sup>291</sup> If the merger or demerger process is not completed within the period designated by the Board, which shall not be less than six months from the date of permission, the permission given becomes void. In this case, the merger and demerger processes cannot be completed without the reissuance of a permission by a Board decision.

(8) Board approval shall be given on the condition that the obligations set forth under this Regulation are fulfilled.

(9) The decision of the Board regarding the approval of the merger or demerger shall be notified to the relevant institutions or organizations.

(10)<sup>292</sup> In the event that any obligation is included in the decision to approve the merger or demerger, a time period shall be determined for the fulfillment of the said obligation. A new license shall be issued as a continuation of the old one to the legal entity who fulfills the obligations within the prescribed period, pays the license fee and applies to the Authority. In case the obligations are not fulfilled within the prescribed period, except for events of force majeure, the approval process automatically becomes void at the end of the period.

(11)<sup>293</sup> If the Board deems appropriate a partial or complete change in the elevation and/or area of more than one project within the framework of water basin planning made by DSI, the merger or demerger requests of the legal entities holding a pre-license made under this article may be allowed.

### **Research and development activities**

**ARTICLE 60** – (1) Legal entities wishing to carry out research and development activities shall submit to the Authority one of the following documents, undertaking to adopt the necessary measures to prevent the facility to be built from adversely affecting the network and submit the document of undertaking to compensate damages that may be inflicted upon the network. Documents:

- a) Received within the scope of the Law No. 5746 of 28/2/2008 on the Support of Research and Development Activities,
- b) Issued by national and international organizations for research and development activities,
- c) Received within the scope of Technology Development Zones Law No. 4691 of 26/6/2001 to carry out research and development activities,

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<sup>289</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>290</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>291</sup> Amended pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>292</sup> Amended pursuant to the Regulation published in the Official Gazette dated 14 May 2020 and numbered 31127.

<sup>293</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

Provided that the connection opinion of the facility to be built for the activity in question is approved by TEİAŞ and/or the relevant legal entity holding the distribution license, and the electricity to be generated from this facility is not subject to trade and does not exceed 10 MW installed capacity, this activity shall be permitted by a Board decision. The installed capacity of the facility, technology, resource, activity period shall be included in the document delivered with the decision of the Board. It is mandatory to obtain a license if the activity in question is subject to trade.

(2)<sup>294</sup> The provisions of sub-clause (b) and (c) of the seventh paragraph of Article 12 shall not be applicable to applications for pre-license applications to establish electricity generation facilities based on nuclear energy resources, domestic or renewable resources in the premises of research institutions chartered by law, institutions of higher education regulated by the Law on the Organization of Higher Education Institutions dated 28/3/1983 and numbered 2809, as part of their scientific research and development activities and submitted by joint stock companies or limited liability partnerships that are solely controlled by the foregoing, provided that they are in the same distribution area, are established to meet their own needs and do not exceed 10 MW installed capacity.

#### **The repealed regulation**

**ARTICLE 61** – (1) The Electricity Market Licensing Regulation published in the Official Gazette dated 4/8/2002 and numbered 24836 has been repealed as of the publication date of this Regulation.

## **CHAPTER TEN Provisional and Final Provisions**

#### **Supply of energy from generation facilities outside of residential areas**

**PROVISIONAL ARTICLE 1**<sup>295</sup> – (1) In case of an application to the Authority on the grounds that distribution and retail sales services cannot be provided, in generation facilities located outside of residential areas, completing the generation activity and /or necessary activities and activities related to by-products resulting from generation activities may be permitted to be provided by other legal entities in an integrated manner with the said generation facilities, until the date when the said services can be provided by the relevant distribution license holder legal entities.

#### **Submission of the decision to be taken within the scope of the Environmental Impact Assessment Regulation**

**PROVISIONAL ARTICLE 2** – (1) The rights granted to the relevant legal entities within the framework of the provisional article 40 of the Repealed Electricity Market Licensing Regulation published in the Official Gazette dated 4/8/2002 and numbered 24836 shall be reserved.

#### **Applications based on solar energy**

**PROVISIONAL ARTICLE 3** – (1) The total installed capacity of generation facilities based on YEK certified solar energy to be connected to the transmission system until 31/12/2013 cannot exceed 600 MW.

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<sup>294</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>295</sup> Amended pursuant to the Regulation published in the Official Gazette dated 26 December 2014 and numbered 29217.



(2) In pre-license applications for establishment of a solar energy based generation facility within the scope of the fifth paragraph of article 6 / C of the Law No. 5346 on the Utilization of Renewable Energy Resources for Electricity Generation, the installed capacity of each generation facility subject to application cannot exceed 50 MW.

**Service procurement within the scope of legal unbundling**

**PROVISIONAL ARTICLE 4 – (1)** The assigned supply company shall procure the services it is obliged to provide within the scope of the applicable legislation, by procuring services from the distribution company from 1/1/2013 until the completion of the partial demerger and other transfer transactions. However, the service procurement within the scope of this paragraph cannot exceed 6 (six) months. This period shall be applied as 12 (twelve) months for those assigned supply companies that are subject to privatization.

(2) Distribution license holders may also carry out retail sales activities and retail sales services within the scope of their licenses during the service procurement period specified in the first paragraph.

(3) Management and support service units (such as accounting, finance, legal, human resources) needed by the assigned supply companies in order to continue their activities shall be formed by them or these services can be provided through service procurement. Distribution companies cannot procure these services from the relevant parent company or companies controlled by this company starting from 1/1/2016.

(4) Distribution companies and assigned supply sales companies shall provide services in a different physical environment and utilizing separate information systems infrastructure starting from 1/1/2016.

*License applications made to operate at the same location*

**PROVISIONAL ARTICLE 5 – (1)** If there are pre-license and license applications in the market, natural gas market and petroleum market, which are made to operate in the same place before the effective date of this Regulation and the announcement period for which has been completed, evaluation shall be made within the framework of following principles:

a) Pre-license and license applications made in the market or in the oil or natural gas markets to operate on the location subject to studies by the Ministry as a nuclear energy-based generation facility site or in the market where allocation has been made or is anticipated to be made by an international agreement shall be rejected at every stage.

b) In the event that the location subject to a pre-license application for which the announcement has been made is not a location allocated or foreseen to be allocated in accordance with the international agreement or is not subject to the studies by the Ministry as a nuclear energy based generation facility area, however, in order to operate in the place subject to the announced pre-license application, there are other pre-license applications or applications for generation activity in the market, or the application or applications for a refinery and / or storage license in the petroleum market, or a storage license application or applications in the natural gas market, the licensing process for which application will continue at such location subject to the announcement shall be determined by a Board decision in accordance with the following procedures and principles;

1) Priority shall be given for pre-license or license applications to underground natural gas storage in the natural gas market, preliminary license based on other sources or fuel except natural gas in the market, storage to be made in a liquefied natural gas facility in the natural gas market,

refinery in the oil market, pre-license based on natural gas in the market and storage license applications in the oil market applications, respectively.

2) Applications other than pre-license or license applications or applications, which are not given priority within the framework of sub-paragraph (1), shall be returned or rejected.

c)<sup>296</sup> In the event that the decision of the Board, which is the subject of the pre-license application for which the announcement has been made, to carry out generation activities based on other resources or fuel except natural gas and having more than one pre-license application in the market to conduct generation activity based on resources or fuel other than natural gas, the licensing process for which application will continue shall be determined by a Board decision, according to the following procedures and principles:

1) Priority shall be given to applications based on domestic coal, imported coal and renewable energy resources, respectively, taking into account the resource or fuel type of the generation facility subject to the pre-license application.

2) In the event that there is more than one application based on different renewable energy sources in the market within the scope of sub-paragraph (1), the applications based on geothermal, hydraulic, wind and solar energy resources shall be given priority in that order in determining the application for which the licensing process will continue.

3) Applications other than the first ranked application determined pursuant to sub-clause (2) shall be returned or rejected.

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#### **Change of facility location**

**PROVISIONAL ARTICLE 6** – (1) If the applicant requests a change of the generation facility site subject to the application and the requested change does not violate the rights of third parties, legal entities whose application was rejected within the framework of Provisional Article 5 may be granted pre-license for a generation facility to be established in the new site, provided an application is filed within thirty days of the date of notification of the rejection of the application.

(2) In case it is desired to change the generation facility site subject to a generation license issued prior to the effective date of this Regulation and it is determined that this is within the scope of events of force majeure or cases deemed acceptable by the Board, the required amendments can be made to the license provided the requested change does not violate the rights of third parties and the connection point or connection area does not change.

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

**PROVISIONAL ARTICLE 7** – (1) Legal entities holding an auto-producer license shall be granted a generation license *ex officio* within six months from the date of publication of the Law and without having to pay a license fee, preserving the rights under their existing licenses. After the effective date of the Law, auto-producer license application can no longer be made to the Authority.

#### **Pending license applications**

**PROVISIONAL ARTICLE 8** – (1) The following applications, which have not been concluded by the Authority as of the effective date of the Law, shall be concluded as follows.

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<sup>296</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>297</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

a) Generation and auto-producer license applications shall be considered as pre-license applications and shall be concluded within the framework of the provisions regarding pre-license applications set forth under this Regulation.

b) Wholesale and retail license applications shall be considered as supply license applications and finalized within the framework of the provisions regarding license applications set forth under this Regulation.

(2) Generation license applications that were approved as of the effective date of the Law;

a) The applications of legal entities who have not timely completed their obligations for reasons other than events of force majeure or for causes deemed appropriate by the Board shall be rejected from among those whose deadline to fulfill their obligations as specified in the Board's approval decision have expired, and the guarantees submitted with said applications shall be forfeited.

b) Except for legal entities within the scope of subparagraph (a), Board decisions regarding the applications of other legal entities that are found appropriate shall be annulled and their applications be considered as pre-license applications and the relevant legal entities shall be granted ninety days to fulfill the obligations set forth under this Regulation. If the relevant legal entity fails to complete its obligations within this period, or if the Authority is notified in writing that the application has been withdrawn, the application of the said legal entity shall be rejected with a Board decision and the letter of guarantee submitted to the Authority within the scope of the relevant application shall be returned.

(3)<sup>298</sup> Generation license applications that were at the stage of evaluation and applications that were not yet taken into evaluation as of the effective date of the Law shall be accepted as pre-license applications and the said applications shall be concluded according to the provisions of this Regulation. In order for the evaluation of the pre-license application to be concluded, the applicant legal entity shall be notified after the date of submitting the document stating that the applicant legal entity accepts and undertakes the opinions on connection and system use within the scope of the second paragraph of Article 15, or the date on which the said opinions are deemed to have been accepted and undertaken. In this notification, it will be notified that the applicant legal entity is to be granted a pre-license by a Board decision within ninety days from the notification, provided that the obligations to be determined under the fifth paragraph of Article 12 are fulfilled. If the relevant legal entity fails to fulfill its obligations within this period or the Authority is notified in writing that the application is withdrawn, the application of the said legal entity shall be rejected by a Board decision and the letter of guarantee submitted to the Authority within the scope of the relevant application shall be returned.

### **Granting a supply license**

**PROVISIONAL ARTICLE 9** – (1) Legal entities holding wholesale or retail licenses as of the effective date of the Law shall be granted a supply license *ex officio* and without charge by a Board decision, preserving their rights under their existing licenses.

### **Expropriation procedures**

**PROVISIONAL ARTICLE 10** – (1) The expropriation and transfer procedures of immovable properties required for electricity generation and distribution facilities, for which an expropriation decision has been adopted by the Board prior to the effective date of the Law or the transfer decision pursuant to article 30 of the Law No. 2942, shall be finalized by the Authority.

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<sup>298</sup> Amended pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

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

**PROVISIONAL ARTICLE 11** – (1) Generation facilities and projects within the scope of existing contracts shall be issued *ex officio* a generation license based on the existing generation license applications within the scope of the applicable legislation within one year from the effective date of the Law and against payment of the license fee, provided that the rights and obligations in their existing contracts are limited to the contract period. Legal entities within this scope shall be asked to update the information on which their license is based, if necessary.

### **Beginning of the period for service procurement**

**PROVISIONAL ARTICLE 12** – (1) The regulations regarding procurement of services envisaged within the scope of Article 48 shall enter into force as of 1/1/2014.

### **System access and system usage rights**

#### **PROVISIONAL ARTICLE 13<sup>299</sup>**

### **Finalization of wind applications previously found suitable**

**PROVISIONAL ARTICLE 14** – (1) Among license applications made for wind energy based generation activity, legal entities whose license applications were rejected before 2/8/2013 due to not fulfilling obligations specified in the approval decision, despite being approved to be issued a license by a Board decision, may apply to the Authority within one month of 2/8/2013 and if it is confirmed by TEİAŞ or electricity distribution companies that the connection opinions are still valid, the applications of legal entities within this scope shall be accepted as pre-license applications and the relevant legal entities shall be granted a pre-license on the condition that they fulfill the obligations set forth under the Law. The previously forfeited guarantees of legal entities applying pursuant to this article shall not be returned.

(2) Applications falling within the scope of the first paragraph shall be sent to the relevant distribution company and /or TEİAŞ in order to determine whether the connection opinions are still valid or not. From these applications;

a)<sup>300</sup> The relevant legal entities shall be notified about the applications, for which connection opinions are still valid, and they shall be asked to submit the information and documents specified under Article 12 of this Regulation within ninety days from the date of notification. The applications of legal entities that have timely submitted the said information and documents shall be sent to the General Directorate of Energy Affairs in order to make a technical assessment within the framework of Article 15.

b)<sup>301</sup> Wind measurement for one year shall be requested from the applications whose technical assessment is approved by the General Directorate of Energy Affairs, provided that it is completed within fifteen months.

c) Following the completion of the wind measurement and its submission to the Authority, a pre-license shall be granted to the relevant legal entities.

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<sup>299</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 28 January 2014 and numbered 28896.

<sup>300</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

<sup>301</sup> Amended pursuant to the Regulation published in the Official Gazette dated 16 August 2018 and numbered 30511.

(3) Applications of legal entities who are unable to document receipt of a positive connection opinion by the General Directorate of TEİAŞ or fail to fulfill their obligations within the above-mentioned periods shall be rejected by a Board decision.

#### **Six months granted to existing license holders**

**PROVISIONAL ARTICLE 15**<sup>302</sup> – (1) Obligations to be fulfilled by legal entities within the framework of the first paragraph of the Provisional Article 9 of the Law are as follows:

a) To obtain the ownership or usage right of the area in question In the event that the site where the generation facility will be established is not owned by the licensed legal entity, to take a decision of expropriation from the relevant administrations about the water retention areas for hydroelectric power plants.

b) Having the zoning plans approved for the generation facility planned to be established.

c) Making the necessary application for obtaining Technical Interference Permit regarding wind energy based applications.

ç) To take the necessary decision within the scope of the Environmental Impact Assessment Regulation.

(2)<sup>303</sup> As of the effective date of this Regulation,

a) Legal entities whose pre-construction period expired, within six months at the latest from the effective date of this Regulation,

b) Legal entities whose pre-construction period has not expired yet, by adding six months to the remaining pre-construction periods,

shall be obliged to submit to the Authority the information and documents regarding the completion of the obligations specified in the first paragraph. Legal entities who cannot fulfill these obligations within this period shall be subject to the first paragraph of the Provisional Article 9 of the Law. Collaterals provided to the Authority within the scope of the generation license shall not be returned until the obligations specified under the first paragraph are fulfilled, even if the related facility commences its operations.

(3)<sup>304</sup> As of the dates specified in the second paragraph, license holder legal entities that obtain a construction license or obtain a document substituting a construction license shall not be asked to obtain the documents listed under the first paragraph.

(4) The status of license holder legal entities for whom a ruling has been made pursuant to this article before the effective date of this paragraph, is to be re-evaluated *ex officio*.

#### **Market operation license applications of TEİAŞ and EPİAŞ**

**PROVISIONAL ARTICLE 16** – (1) EPİAŞ and TEİAŞ shall be obliged to apply to the Authority for a market operation license within three months of the establishment of EPİAŞ.

#### **Pre-license applications based on wind or solar energy**

**PROVISIONAL ARTICLE 17** – (1) Applications for pre-license to establish a wind and solar power based generation facility for the year 2014 shall be received in accordance with the following procedure;

a) Within 1 month from the effective date of this Regulation, TEİAŞ shall within the framework of article 23 of the Law, notify the Authority and publish on its website the capacity of

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<sup>302</sup> Amended pursuant to the Regulation published in the Official Gazette dated 4 February 2015 and numbered 29257.

<sup>303</sup> Amended pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>304</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

the wind or solar power based generation facilities that can be connected to the system on the connection point and / or regional basis for the five and ten years following 20.

b) Within the framework of the connectable generation facility capacity notified to the Authority within the framework of subparagraph (a), in the month corresponding to 16 months after the said notification date;

1) pre-license applications based on solar energy shall be received by the Authority in the first five working days,

2) pre-license applications based on wind energy shall be received by the Authority in the last five working days.

### **Publication of regional generation facility capacities**

**PROVISIONAL ARTICLE 18** – (1) TEİAŞ and distribution companies shall notify the Authority within 3 months from the effective date of this Regulation on the regional generation facility capacity that can be connected to their systems for the next five years following 2013, and for the following ten years, and shall publish these data on their websites.

### **Obligation regarding the Information Security Management System Standard<sup>305</sup>**

**PROVISIONAL ARTICLE 19<sup>306</sup>** – (1) Legal entities holding a generation license shall be obliged to complete their obligations set forth under sub-clause (f) of the second clause of Article 30, TEİAŞ shall be obliged to complete its obligations set forth under sub-clause (p) of the second clause of Article 31, legal entities holding a market operation license shall be obliged to complete their obligations set forth under sub-clause (ğ) of the third clause of Article 32, distribution license holders shall be obliged to complete their obligations under sub-clause (y) of the second clause of Article 33 until 31/12/2017.

### **Decision required to be taken within the scope of the Environmental Impact Assessment Regulation for pre-license applications**

**PROVISIONAL ARTICLE 20<sup>307</sup>** – (1) Except for pre-license applications based on wind, solar, hydraulic and geothermal energy, as of the effective date of this article;

a) Legal entities whose pre-license application is at the evaluation stage shall given a period of twenty-four months as of the effective date of this article to submit the decision to Authority required to be taken within the scope of the Environmental Impact Assessment Regulation.

b) The pre-license applications that have not been evaluated yet and for which the decision required to be taken within the scope of the Environmental Impact Assessment Regulation have not been submitted to the Authority shall be returned together with the application file.

(2) In case the decision required to be taken within the scope of the Environmental Impact Assessment Regulation within the scope of subparagraph (a) of the first paragraph is not timely submitted to the Authority except for events of force majeure, the said application shall be rejected by a Board decision and the guarantee submitted shall be returned.

### **Obligations of existing license holders regarding the standards<sup>308</sup>**

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<sup>305</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>306</sup> Amended pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>307</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>308</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

**PROVISIONAL ARTICLE 21**<sup>309</sup> – (1)<sup>310</sup> TEİAŞ's obligations set forth under sub-clause (r) of the second clause of Article 31, legal entities holding market operating license, their obligations set forth under sub-clause (h) of the third clause of Article 32, distribution license holders' obligations set forth under sub-clause (z) of the second clause of Article 33, the assigned supply companies' obligations set forth under sub-clause (ğ) of the fourth clause of Article 34 shall be fulfilled within twenty four months from the effective date of this article.

**Obligation to provide a registered e-mail address**<sup>311</sup>

**PROVISIONAL ARTICLE 22**<sup>312</sup> – (1) Legal entities holding a pre-license or a license and legal entities that have applied for a pre-license or license who have not submitted their registered e-mail addresses to the Authority yet shall be obliged to submit their registered e-mail addresses to the Authority within two months from the effective date of this article. The relevant provisions set forth under article 16 of the Law shall be applied to legal entities who fail to fulfill this obligation.

*Pre-license applications based on wind energy*<sup>313</sup>

**PROVISIONAL ARTICLE 23**<sup>314</sup> – (1) Applications for pre-license to establish a wind power based generation facility shall be received in accordance through the following procedure for the year 2017:

a) TEİAŞ shall notify the Authority within the framework of article 23 of the Law of the capacity of wind energy based generation facilities that can be connected to the system through a connection point and /or regional basis for the year 2017, within three months from the effective date of this article, specifying the capacity available for the following five and ten years, and shall publish it on its website.

b) Pre-license applications based on wind energy shall be received by the Authority in the first five business days of the month corresponding to sixteen months following the date of said notification, pursuant to the framework of the connectable generation facility capacity notified to the Authority as per subparagraph (a).

**Applications related to YEKAs**<sup>315</sup>

**PROVISIONAL ARTICLE 24**<sup>316</sup> – (1) The provisions of this Regulation shall also be applied to the pre-licenses and generation licenses to be granted within the scope of the Karapınar Renewable Energy Resource Area (YEKA) Domestic Production Equivalent (DPE) Competition Announcement published in the Official Gazette dated 20/10/2016 and numbered 29863.

**Liability for immovable property for which usage right has not been obtained**<sup>317</sup>

**PROVISIONAL ARTICLE 25**<sup>318</sup> – (1) It is mandatory to initiate the necessary procedures within the scope of the applicable legislation for legal entities holding a pre-license or license and

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<sup>309</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>310</sup> Amended pursuant to the Regulation published in the Official Gazette dated 22 October 2016 and numbered 29865.

<sup>311</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>312</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>313</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>314</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 December 2015 and numbered 29571.

<sup>315</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>316</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 24 February 2017 and numbered 29989.

<sup>317</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>318</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

that did not fulfill their obligations set forth under sub-clause (c) of the second paragraph of article 28 and sub-clause (g) of the second paragraph of article 30 of this Regulation, within six months from the date of entry into force of this provision.

(2) The period given under the first paragraph does not affect the duration of the pre-license and the periods specified under the Provisional Article 15 of this Regulation.

#### **Preliminary project approval<sup>319</sup>**

**PROVISIONAL ARTICLE 26<sup>320</sup>** – (1)<sup>321</sup> Preliminary project approval may also be submitted instead of project or final project approval until 31/12/2021 within the framework of item (c) of the first paragraph of Article 17 of this Regulation.

#### **National Electronic Notification Address<sup>322</sup>**

**PROVISIONAL ARTICLE 27<sup>323</sup>** – (1) Pre-license and license holder legal entities are obliged to obtain their National Electronic Notification System addresses in accordance with the electronic notification legislation, within six months from the effective date of this article.

#### **Written application<sup>324</sup>**

**PROVISIONAL ARTICLE 28<sup>325</sup>** – (1) The Board shall decide the procedures and principles regarding which of these applications shall be made to the Authority in writing, until the applications for pre-license and licenses to be made to the Authority are received through the EMRA Application System.

(2) Applications to be made through EMRA Application System can also be made in writing until 30/11/2019.

#### **Capacity increases approved prior to 28/2/2019<sup>326</sup>**

**PROVISIONAL ARTICLE 29<sup>327</sup>** – (1) Pre-license or license amendment procedures shall be carried out for applications which were approved by the Authority prior to 28/2/2019 from among the installed capacity increase requests within the scope of Articles 18 and 24 of this Regulation, provided that the obligations specified in the said approval decision are timely fulfilled.

#### **Temporary acceptance of multi-source power generation facilities<sup>328</sup>**

**PROVISIONAL ARTICLE 30<sup>329</sup>** – (1) Acceptance of the units or units based on the auxiliary source partially or in whole shall not be made without the partial or full acceptance of the units based on the main source in power generation facilities with multiple resources before 1/1/2021.

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<sup>319</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>320</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2018 and numbered 30473.

<sup>321</sup> Amended pursuant to the Regulation published in the Official Gazette dated 25 December 2020 and numbered 31345.

<sup>322</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>323</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>324</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>325</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>326</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>327</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 23 August 2019 and numbered 30867.

<sup>328</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 28 July 2020 and numbered 31199.

<sup>329</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 28 July 2020 and numbered 31199.



### **Notification of the changes to the shareholding structure<sup>330</sup>**

**PROVISIONAL ARTICLE 31<sup>331</sup>** (1) Within the scope of the first and second paragraphs of Article 57 of this Regulation, the notifications to be made via the EMRA Application System can be made in writing until 1/6/2021.

### **Current applications regarding multi-resource electricity generation facilities<sup>332</sup>**

**PROVISIONAL ARTICLE 32<sup>333</sup>** (1) As of the effective date of this Article, the process of formation of a connection opinion regarding the applications of legal entities who applied to the Authority within the scope of the provisions of this Regulation regarding the establishment of multi-resource electricity generation facilities shall be determined by Board decision.

### **Rights and obligations of distribution license holder and supply license holder**

**PROVISIONAL ARTICLE 33<sup>334</sup>**- (1) Necessary actions shall be taken until 1/7/2022 in respect of breaches of the sixth and seventh paragraphs of Article 33 and the ninth, tenth and eleventh paragraphs of Article 34 of this Regulation.

### **Environmental permit and license documents**

**PROVISIONAL ARTICLE 34<sup>335</sup>**- (1) Legal entities holding licenses for biomass based electricity generation facilities that have been accepted and partially or fully put into operation as of the effective date of this Article are obliged to submit the document required to be obtained from the Ministry of Environment, Urbanization and Climate Change within the scope of the Environmental Permit and License Regulation to the Authority within twenty four months as of the effective date of this Article.

### **Vertical obstacle data**

**PROVISIONAL ARTICLE 35<sup>336</sup>** - (1) Legal entities holding generation licenses based on wind energy, which have been approved for commissioning and partially or fully put into operation as of the effective date of this Article are obliged to submit information on all types of facilities and structures that constitute vertical obstacles within the scope of their generation licenses to the General Directorate of Mapping within three months from the effective date of this Article in accordance with the Regulation on Collection and Presentation of Vertical Obstacle Data.

### **Technical assessment of biomass and geothermal energy based electricity generation facilities**

**PROVISIONAL ARTICLE 36<sup>337</sup>** - (1) The relevant articles of this Regulation shall not apply until the effective date of the procedures and principles to be issued regarding performance of technical assessment by the Ministry/ General Directorate of Energy Affairs within the scope of the ninth paragraph of Article 7 of the Law in the finalization of the pre-license applications as well

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<sup>330</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>331</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>332</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>333</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 9 May 2021 and numbered 31479.

<sup>334</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>335</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 10 March 2022 and numbered 31774.

<sup>336</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>337</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

as pre-license and license amendment applications for biomass and geothermal energy based electricity generation facilities.

**Applications for independent electricity storage facilities**

**PROVISIONAL ARTICLE 37<sup>338</sup>** – (1) As of the effective date of this Article, if the legal entities holding supply licenses, which are eligible to include independent electricity storage facility in their licenses, apply for a pre-license to establish an electricity generation facility with storage within 3 months as of the effective date of this Article, the positive connection opinions issued for such independent electricity storage facilities shall also be valid for the pre-license applications to be made by these legal entities. However, the power to be valid for the pre-license applications shall not exceed the following for each supply license:

(a) as for independent electricity storage facilities of 250 MW and below, the installed capacity for which a positive opinion is given,

(b) as for independent electricity storage facilities above 250 MW, the total power to be calculated by adding 250 MW to half of the part of the total installed capacity for which a positive opinion is given exceeding 250 MW.

The power applicable for pre-license applications within the scope of this paragraph shall not exceed 500 MW in any case.

**The evaluation of pre-license applications for electricity generation facilities with storage**

**PROVISIONAL ARTICLE 38<sup>339</sup>** – (1) As of the effective date of this Article until 30/6/2023, for the pre-license applications to be made within the scope of the fourteenth paragraph of Article 12 and the Provisional Article 37, the requirements regarding minimum capital and submission of guarantee shall not be sought at the application stage during the evaluation of such applications within the scope of Article 13. However, it is obligatory to fulfill the guarantee obligation within 90 days from the date that the application filed within this scope is put into evaluation, and the minimum capital obligations shall be fulfilled within 90 days from the date of notification of the Board decision regarding grant of pre-license. If the said obligations are not fulfilled within the said time periods; the pre-license application shall be refused by Board decision, and if the pre-license is already granted, then it shall be terminated by Board decision.

**The requirement regarding submission of guarantee in pre-license applications for electricity generation facilities with storage**

**PROVISIONAL ARTICLE 39<sup>340</sup>** - (1) In respect of the requirements regarding submission of guarantee for those pre-license applications made until 30 June 2023, for which a connection opinion has not been issued as of the effective date of this Article within the scope of the fourteenth paragraph of Article 12 of the Regulation, the requirement regarding submission of guarantee in applications for which an affirmative connection opinion has been issued by TEİAŞ shall be fulfilled within 30 days of the date of notification to the company by the Authority. If the said requirement is not fulfilled within such time period, the pre-license application shall be rejected by a Board resolution.

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<sup>338</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>339</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 19 November 2022 and numbered 32018.

<sup>340</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 13 July 2023 and numbered 32247.

## **Forest Permits**

**PROVISIONAL ARTICLE 40**<sup>341</sup> – (1) The preliminary forest permits submitted until 31 December 2025 by legal entities which are subject to an obligation regulated under sub-paragraph (a) of the first paragraph of Article 17, shall be considered as forest permits obtained within the scope of preliminary license.

## **Announcement of regional generation plant capacities and receipt of applications**

**PROVISIONAL ARTICLE 41**<sup>342</sup> – (1) TEİAŞ shall notify the Ministry and the Authority and announce on its website, the capacities of the regional generation facilities that can be connected to their systems for the five years and ten years following 2023, until 1 April 2024.

(2) No applications shall be received regarding the electricity generation facilities with storage that fall within the scope of the fourteenth paragraph of Article 12 and the twenty first paragraph of Article 24, until such time when the Board takes a decision pursuant to the seventh paragraph of Article 12.

## **Enforcement**

**ARTICLE 62** – (1) This Regulation shall enter into force on the date of its publication.

## **Execution**

**ARTICLE 63** – (1) The provisions of this Regulation shall be executed by the President.

Annex-1: License Application Letter<sup>343</sup>

Annex-2: The Letter of Application for Pre-license<sup>344</sup>

Annex-3: Wind Measurement Station Installation Report Format<sup>345</sup>

Annex-4: Wind Measurement Result Report Format<sup>346</sup>

Annex-5: Solar Measurement Station Installation Report Format<sup>347</sup>

Annex-6: Solar Measurement Result Report Format<sup>348</sup>

Annex-7: Application Letter for Pre-license / Undergraduate Degree Amendment<sup>349</sup>

<b>Regulation Published in the Official Gazette</b>	
<b>Dated</b>	<b>Numbered</b>
02/11/2013	28809
<b>Regulations Amending the Regulation Published in the Official Gazettes</b>	

<sup>341</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>342</sup> Inserted pursuant to the Regulation published in the Official Gazette dated 14 October 2023 and numbered 32339.

<sup>343</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>344</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>345</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>346</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>347</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>348</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

<sup>349</sup> Repealed pursuant to the Regulation published in the Official Gazette dated 9 July 2019 and numbered 30826.

	<b>Dated</b>	<b>Numbered</b>
1	28/01/2014	28896
2	26/12/2014	29217
3	04/02/2015	29257
4	23/12/2015	29571
5	22/10/2016	29865
6	24/02/2017	29989
7	09/06/2017	30091
8	15/12/2017	30271
9	09/07/2018	30473
10	16/08/2018	30511
11	30/12/2018	30641
12	16/02/2019	30688
13	09/07/2019	30826
14	23/08/2019	30867
15	31/12/2019	30995
16	08/03/2020	31062
17	14/05/2020	31127
18	28/07/2020	31199
19	25/12/2020	31345
20	09/05/2021	31479
21	10/03/2022	31774
22	19/11/2022	32018
23	13/07/2023	32247
24	14/10/2023	32339