

LICENSING PROCESSES OF SOLAR POWER PLANTS (SPP) IN THE ELECTRICITY MARKET OF TURKEY

Electricity Market in Turkey

Electricity market activities are regulated in detail in the Electricity Market Law No. 462 and 6446. In Article 4 of Law No. 6446, electricity market activities in Turkey are listed as production, transmission, distribution, wholesale or retail, import, and export and market operation activities. In order to carry out these activities in coordination, the Energy Market Regulatory Authority (EMRA), which has public legal personality, has been established in order to fulfill the duties assigned to it by Law No. 4628, to regulate and supervise the energy market.

In the Electricity Market Law No. 6446, it is regulated that the electric energy "transmission" activity can be carried out exclusively by the Turkish Electricity Transmission Corporation. In addition, in conducting electricity market operations, without distinction between public and private, as a rule, it is obligatory to obtain a license. For these reasons, private legal entities, as well as public legal entities, must obtain a license from EMRA for activities such as production, distribution, import, export, and trade of all kinds of electrical energy.

Licensed and Unlicensed Solar Power Production

If it is planned to generate electricity over 1 MW in the solar power plant, "production license" must be obtained from EMRA. However, if it is planned to generate electricity in the solar power plant under 1 MW, it is regulated by law that it can be generated without obtaining a license and without establishing a company.

Licensed Solar Power Production

In order to establish a joint stock company or limited company in accordance with the Turkish Commercial Code for electricity production over 1 MWA, a solar power investor must first complete a pre-license application by submitting the solar measurement station and measurement result report, production plant information form, time schedule, single line diagram, 1:25000 scale map, proof of ownership of the project land and documents proving land tenure

and other documents. This application is announced and a preliminary examination is carried out by EMRA after receiving pre-license applications for the same project site from different investors. General Directorate of Renewable Energy (GDRE) prepares Technical Evaluation Final Report for applicants and transaction files that are approved by EMRA. Turkish Electricity Transmission Company (TEİAŞ) holds a competition to determine the investor candidate who provides the most favorable conditions and the winning candidate is granted a pre-license by EMRA. During the pre-license period, the investor is granted a license by EMRA upon obtaining administrative permits for the establishment of the plant and implementing the development plans for the plant to be established. Subsequently, the facility continues to operate as a commercial enterprise for the duration of the license.ü,

Unlicensed Solar Power Production

In Article 14 of Electricity Market Law No. 6446, titled "The activities exempt from obtaining a license", the rules and procedures regarding the connection of the persons exempt from obtaining a license or incorporating a company to the system and the rules and procedures regarding the sales, application, and inspection are regulated.

The following regulation is included in the 2nd sub-clause of Article 9 "Application for connection and system use" of the Regulation on Unlicensed Electricity Generation within the Electricity Market, promulgated in accordance with the Law No. 6446: "...in applications for solar power, a Call Letter for Connection Agreement is presented by the Network Operator to the applicants whose Technical Evaluation Report is positive."

Through the process of the Ministry of Energy and Natural Resources dated 26/07/2016 and numbered 19973, established in accordance with the authority given by the Law No. 3154 and the Electrical Plants Project Regulation, an "Authorization Table" has been

put into force regarding the authorization of the institutions and organizations for the project approval, acceptance and minutes approval procedures of the electricity plants. According to this table, the Turkish Electricity Distribution Corporation (TEDAŞ) is authorized for the unlicensed solar power plants.

In order to establish an unlicensed solar power plant, a Call Letter must be received by applying to the electricity distribution corporation. Following this, the project approval process is completed by TEDAŞ and a Connection Agreement is signed with the DISCOM. In the final stage, the temporary admission of the solar power plant that has been established is made by TEDAŞ and the System Usage Agreement is made with the relevant DISCOM. As a result of this agreement, activities for the sale of electrical energy produced in the unlicensed Solar Power Plant are initiated.

As Hansu Law Firm, we have been providing law enforcement and litigation services management on the following matters for many years both in general courts and in arbitration centers to the investors who want to establish or take over a licensed or unlicensed Solar Power Plant:

- Management of investment processes related to the Solar Power Plant (SPP)/ Energy Projects,
- Preparation of articles of incorporation and handling company registration procedures,
- Management of legal due diligence process in the takeover of the solar power plant/energy companies, preparation of share transfer and shareholding agreements and registration/finalization of share transfer,
- Disputes arising from both the transferor and the public administrations in the Solar Power Plant /Energy Projects.

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