

# Turkish Energy & Infrastructure

## In this Issue...

### Recent Changes in Legislation

1. The Regulation Amending the Regulation on Electricity Network
2. The Regulation Amending the Regulation on Connection and System Usage in Electricity Market
3. The Regulation Amending the Electricity Market Licensing Regulation
4. The Regulation Amending the Regulation on Certification and Support of Renewable Energy Resources
5. Electricity Generation Facilities - Potable and Utility Water Basins
6. EMRA Board Decision on Wind Power Based Preliminary License Applications
7. The Omnibus Law No. 7226
8. Establishment of TENMAK with the Presidential Decree No.57 regarding the Amendments to be Made in Certain Presidential Decrees
9. EMRA's Decision dated 26 March 2020 and numbered 9264-3
10. EMRA Board Decision on the Active Electricity Energy Wholesale Tariff
11. EMRA Board Decision on the New Tariffs

### Recent Changes in Legislation

#### The Regulation Amending the Regulation on Electricity Network

Pursuant to the amendment made to Article 33/2 of the Regulation on Electricity Network<sup>1</sup> on 1 March 2020<sup>2</sup>, the total installed capacity of the generation facilities to be connected to a distribution busbar of Türkiye Elektrik İletim Anonim Şirketi or a distribution system connected to such a busbar, shall be limited with the nominal apparent power of the transformer without forced cooling at the relevant busbar, provided that it does not exceed the short circuit fault current limit of the relevant busbar. Previously, this limit was 50 MW. Besides, the following statement under the same Article was repealed: *“the total installed capacity of the generation facilities to be connected to a distribution busbar at 400/33kV centers, which are connected with medium voltage only by the generation facilities, may exceed 50*

<sup>1</sup> Published in the Official Gazette dated 28 May 2014 numbered 29013.

<sup>2</sup> Amending Regulation on the Regulation on Electricity Network as published in the Official Gazette dated 1 March 2020 numbered 31055.

12. EMRA Board Decision on Extension of the Terms Due to COVID-19 Pandemic
13. EMRA's Decision dated 9 April 2020 and numbered 9292
14. The Law on Reducing the Effects of the Novel Coronavirus (COVID-19) Pandemic on Economic and Social Life and the Law Amending Certain Laws
15. EMRA's Decision dated 16 April 2020 and numbered 9311
16. Temporary Article on Electricity Market Settlement Payments
17. 6<sup>th</sup> Application Period of Türkiye Elektrik İletim Anonim Şirketi

### Draft Legislation

1. Recent Amendments to the Procedures and Principles on Natural Gas Storage Obligations

### Other News

1. Public Announcement of Ministry of Energy and Natural Resources regarding COVID-19 and Mining Sector

*MW provided that it does not exceed the short circuit fault current limit of the relevant busbar”.*

#### The Regulation Amending the Regulation on Connection and System Usage in Electricity Market

The Regulation Amending the Regulation on Connection and System Usage in Electricity Market (**“Amending Regulation”**) was published in the Official Gazette dated 3 March 2020 and numbered 31057, and has entered into force on the same day. This Amending Regulation brought certain changes relating to the application process of connection to the distribution line for the consumption facilities and execution of connection and system usage agreements by preliminary license holders. Respective novelties can be summarized as follows:

- The Amending Regulation provides that the distribution license holder provides its opinion on the connection request, including the reasonable time for connection as well as its reasoning, to the applicant, i.e. the consumption facility owner, within seven days if no field study is required and ten days if a field study is required, as from the application date. These periods were ten days and

twenty days, respectively, before the Amending Regulation has entered into force. Additionally, the Amending Regulation enables the consumption facilities to request such opinion in an electronic form.

- The Amending Regulation also provides the preliminary license holder with an opportunity to conclude connection and system usage agreements before obtaining the (final) license. According to this provision, although connection and system usage agreements relating to generation facilities cannot be executed unless there is production license; the preliminary license holder is allowed to do so until 31 December 2020 upon filing an application provided that the distribution license holder provides affirmative opinion on connection.
- In case the connection and distribution infrastructures are established by the distribution license holder, a security amounting to the investment amount, calculated in accordance with the methodology for the establishment of distribution network by the user, will be provided. The security will be released upon obtaining (i) the temporary acceptance of generation facility, (ii) the temporary acceptance of distribution system, and (iii) usage rights of the properties where the distribution system is constructed, which requires a public benefit resolution followed by establishment of easement rights, transfer of the property or final forestry permits, as necessary.

## The Regulation Amending the Electricity Market Licensing Regulation

The Regulation Amending the Electricity Market Licensing Regulation (“**Amending Regulation**”) was published in the Official Gazette dated 8 March 2020 and numbered 31062. The Amending Regulation mainly deals with the licensing procedure for hybrid power plants and hybrid renewable power plants, which generate electricity by way of combining two or more different types of energy resources (“**Hybrid Plants**”).

The main novelties introduced in the Amending Regulation are as follows:

- A hybrid plant will be evaluated under a single preliminary license or license. The unit, which generates electricity from the auxiliary resource, will be deemed as a unit of the primary resource. The auxiliary resource cannot be converted into the primary resource.
- In the preliminary license applications of Hybrid Plants, the obligations such as submission of the letter of guarantee, capital increase and payment of the preliminary license fee will be evaluated over

the primary resource by taking into account the total installed capacity of the auxiliary and primary resources.

- For hydraulic plants, the affirmative opinion of Directorate General of State Hydraulic Works (“**DSI**”) will be obtained for the auxiliary resource.
- The preliminary license application process set out under the Electricity Market Licensing Regulation<sup>3</sup> (“**Regulation**”) will apply to preliminary license applications of Hybrid Plants, except for the wind and solar measurement requirement for wind and solar plants respectively.
- The evaluation process for preliminary license applications set out in the Regulation will apply to the auxiliary resources of Hybrid Plants, except for the competition provisions.
- The following requirements must be fulfilled for the conversion of power plants to Hybrid Plants:
  - i. The power plant must be within the project site set out in the preliminary license or license.
  - ii. The licensed installed capacity of the power plant must not change.
  - iii. The existing connection method, connection point and voltage level of the power plant must not change.
  - iv. If the auxiliary resource is wind or solar, the outcome of the technical evaluation by the General Directorate of Energy Affairs must be positive.
  - v. The affirmative opinion of DSI must be obtained for the preliminary license or license applications for hydraulic resources and a lease agreement must be signed with DSI for floating solar power plants or solar power units to be installed on the canal surfaces of the hydroelectric resources or in the reservoir area between the maximum water level and the operating level.
- The license fees of Hybrid Plants will be evaluated over the primary source by taking into account the total installed capacity of the auxiliary and primary resources.
- If the unit, which generates electricity from the auxiliary resource, enters into operation before the unit, which generates electricity from the primary resource, the performance bond for the auxiliary resource-based units will not be returned until the primary resource-based units enter into operations.

The Amending Regulation will enter into force on 1 July 2020.

<sup>3</sup> Published in the Official Gazette dated 02 November 2013 numbered 28809.

## The Regulation Amending the Regulation on Certification and Support of Renewable Energy Resources

The Regulation Amending the Regulation on Certification and Support of Renewable Energy Resources (“**Amending Regulation**”) was published in the Official Gazette dated 8 March 2020 and numbered 31062; and it will enter into force on 1 July 2020. The Amending Regulation basically specifies the principles to support hybrid generation facilities through purchase guarantee. The significant amendments can be summarized as follows:

- Power plants which generate electricity by way of combining two or more different types of renewable energy resources, namely “hybrid renewable power plant” and “*supportive sourced electricity generation facility*” are defined with the Amending Regulation.
- Net produced energy amount provided to the system by hybrid renewable power plants will be evaluated within the scope of YEKDEM over the lowest of the prices determined for renewable energy sources used in such power plant and for the remaining duration of the power plant.
- If all of the energy sources used in the supportive sourced electricity generation facility are renewable, the net energy amount produced in this facility will be evaluated within the scope of YEKDEM over the price determined for the main energy source used in the generation facility and for the remaining duration of the unit based on the main source.
- In case the generation facilities, which are already within the scope of YEKDEM, are converted to all renewable supportive sourced electricity generation facilities and hybrid renewable power plants, utilization period of YEKDEM will not change.

## Electricity Generation Facilities - Potable and Utility Water Basins

The Regulation on the Preservation of Potable and Utility Water Basins<sup>4</sup> (“**Water Basins Regulation**”) was amended by an amending regulation published in the Official Gazette dated 10 March 2020 and numbered 31064 (“**Amending Regulation**”). The main novelties brought by the Amending Regulation concerning electricity generation facilities are summarized below.

Pursuant to the Water Basins Regulation, potable-utility water basins are regulated in four categories: (i) strict preservation zone, (ii) short-range preservation zone,

(iii) medium-range preservation zone, and (iv) long-range preservation zone.

- Prior to the Amending Regulation, the Water Basins Regulation did not explicitly restrict the establishment of electricity generation facilities within the strict and short-range preservation zones. However, because the establishment of certain generation facilities were explicitly allowed only for the medium-range and long-range preservation zones, it was understood that no generation facility was allowed to be established within the strict and short-range preservation zones. The Amending Regulation brought a new paragraph which explicitly states that the establishment of solar, wind, hydroelectric, thermal, gasification, biogas or biomass power plants within the strict and short-range preservation zones are prohibited. We believe this change has been made for clarity purposes.
- Previously, electricity generation facilities that may be established within the medium-range and long-range preservation zones were limited to solar and wind power plants. With the Amending Regulation, the establishment of hydroelectric power plants within these zones is now also permitted. In addition, establishment of thermal, gasification, biogas and biomass power plants within the medium-range and long-range preservation zones also became possible provided that (i) the distance between the power plants and the maximum water level is not less than 5.000 meters horizontally, and (ii) the waste waters from the process are duly disposed.

## EMRA Board Decision on Wind Power Based Preliminary License Applications

The Energy Market Regulatory Authority (“**EMRA**”) postponed the preliminary license application dates for the power plants capacities of which are fully wind energy based, with its decision dated 12 March 2020 and numbered 9237 (“**Decision No. 9237**”), which was published in the Official Gazette dated 18 March 2020 and numbered 31072. With the Decision No. 9237, EMRA has decided to accept these preliminary license applications on 5, 6, 7, 8, 9 October 2020 instead of 6, 7, 8, 9, 10 April 2020 (previously determined with its decision dated 14 March 2018 and numbered 7738-7).

## The Omnibus Law No. 7226

The Omnibus Law No.7226 Amending Certain Laws (“**Law No. 7226**”) was published in the Official Gazette dated 26 March 2020 and numbered 31080 (*bis*). The Law No. 7226 introduced several amendments to a wide range of legislation, some of which are aimed at mitigating the negative impacts of the COVID-19 pandemic. Below are some of the prominent changes and measures regulated under the Law No. 7226.

<sup>4</sup> Published in the Official Gazette dated 28 October 2017 and numbered 30224.

## 1. Amendments to the Mining Law

Pursuant to an additional article introduced to the Mining Law No. 3213<sup>5</sup> (“**Mining Law**”), the Ministry of Energy and Natural Resources (“**MENR**”), subject to the opinion of the Ministry of Treasury and Finance, may decide to postpone the financial obligations to be performed and/or declarations to be made under the Mining Law and split the financial obligations to installment payments in situations where a force majeure event exists. Statute of limitations and periods of prescription related to such postponed financial obligations are suspended during this time as well.

The force majeure event must be obvious or proved with supporting documentation. MENR is authorized to announce the force majeure event and determine the financial obligations which can be postponed during this time. This amendment came into force on 26 March 2020 to be retroactively effective as of 1 January 2020.

## 2. Amendments to the Renewable Energy Law

The following amendments were made to Articles 4 and 6 of the Renewable Energy Law No. 5346<sup>6</sup> (“**Renewable Energy Law**”) concerning the determination, preservation and utilization of renewable energy resource areas (“**YEKA**”) and the Turkish Lira denominated renewable energy feed-in tariff (“**YEKDEM**”):

- In order to ensure the effective and efficient utilization of renewable energy resources, MENR, with the opinion of the relevant institution and organization, shall determine renewable resource areas on publicly owned lands and lands owned by the Treasury as well as private property. Once a property is designated as a renewable resource area, this fact will be annotated in the land registry. Unless a lawsuit is filed within 3 years requesting the expropriation of the property on behalf of the Treasury as per Article 10 of the Expropriation Law No. 2942<sup>7</sup> (“**Expropriation Law**”), the said annotation shall be deleted by the land registry, *ex officio*.
- Urgent (expedited) expropriation can be conducted on private property determined as renewable resource areas as per Article 27 of the Expropriation Law.
- In cases where areas determined as industrial zones as per the Industrial Zones Law No. 4737<sup>8</sup> (“**Industrial Zones Law**”) are also designated as renewable resource areas, except

for the determination of the legal entities whom these areas shall be allocated to, such areas shall be subject to the Industrial Zones Law. The legal entities who will be able to use these areas shall be determined by MENR.

- The amendments in Article 4 of the Renewable Energy Law grant MENR the authority to issue secondary legislations regulating the principles and procedures to be followed in a wide range of subjects such as the determination, preservation, rating, and utilization of YEKAs and the qualification of persons such areas can be allocated to, connection and system usage, capacity allocation, tendering, security, domestic components, etc.; and grant Energy Market Regulatory Authority (“**EMRA**”) the authority to issue secondary legislation regulating issues such as YEKDEM, granting, cancellation and amendments to pre-license and licenses of generation facilities, etc.

The amendments to the Renewable Energy Law came into force on 26 March 2020.

## 3. Amendments to the Electricity Market Law

As a part of the renovations made in the YEKA and the YEKDEM mechanisms, Article 5(12) and 5(13) of the Electricity Market Law No. 6446<sup>9</sup> (“**Electricity Market Law**”) were abolished and all references made to these provisions are now made to the aforementioned Article 4 of the Renewable Energy Law. However, these provisions will continue to apply to agreements executed after the YEKA tenders conducted as per the said provisions.

The amendments made to Article 17(4) of the Electricity Market Law also paved the way to the possibility of application of separate tariffs in order to support the renewable energy investments. Furthermore, consumers may also request to benefit from these tariffs in order to support the renewable energy. The amendments to the Electricity Market Law also came into force on 26 March 2020.

## 4. The Collection and Postponement of Electricity and Natural Gas Consumption Fees During Natural Disasters

With the additional article added to the Law No. 7269<sup>10</sup>, the President of the Republic of Turkey is granted the power to determine the duration and scope of the accrual and/or collection of electricity and/or natural gas consumption fees and postpone these for up to 1 year in cases of natural disasters. The President has the authority to cover the financing costs of electricity and/or natural gas distribution and/or supply companies arising from their failure to collect the fees (excluding

<sup>5</sup> Published in the Official Gazette dated 15 June 1985 and numbered 18785.

<sup>6</sup> Published in the Official Gazette dated 18 May 2005 and numbered 25819.

<sup>7</sup> Published in the Official Gazette dated 8 November 1983 and numbered 18215.

<sup>8</sup> Published in the Official Gazette dated 19 January 2002 and numbered 24645.

<sup>9</sup> Published in the Official Gazette dated 30 March 2013 and numbered 28603.

<sup>10</sup> Published in the Official Gazette dated 15 May 1959 and numbered 10213.

the principal amount) from consumers due to such postponement, from the budget of MENR, provided that the fees to be covered do not exceed the amount of the default interest which would have been collected from the consumers.

The principles and procedures of implementation of this amendment shall be regulated by a secondary legislation to be issued by MENR upon consultation with the Ministry of Treasury and Finance. This amendment came into force on 26 March 2020 to be retroactively effective as of 1 January 2020.

#### 5. Postponement of Accommodation Tax

The implementation of the “accommodation tax” recently introduced with the Law No. 7194 to be effective as of 1 April 2020 was postponed to 1 January 2021, aiming to reduce the negative impacts of COVID-19 on the tourism sector.

#### 6. Workplace Rents

As a part of the measures taken to mitigate the negative impacts of COVID-19 on the economy, Provisional Article 2 of the Law No. 7226 provided that failure to pay the workplace rent payments to be due between 1 March 2020 and 30 June 2020 shall not constitute a ground for termination of the subject lease contracts and evacuation of the tenants. This, of course, does not mean that the rent payments are postponed, but rather indicates that failure to pay rent during this period shall not qualify as a ground for termination by the lessor of the respective lease.

### Establishment of TENMAK with the Presidential Decree No. 57 regarding the Amendments to be Made in Certain Presidential Decrees

Presidential Decree No. 57 regarding the Amendments to be Made in Certain Presidential Decrees (“Decree”)<sup>11</sup> was published on 28 March 2020 and has entered into force on the same date. As per Article 14 of the Decree, (i) Turkish Atomic Energy Authority, (ii) Institute of Research for Rare Earth Elements and (iii) National Boron Research Institute have all been terminated and merged into a single authority: Turkish Energy, Nuclear and Mining Research Authority, TENMAK (“TENMAK”). TENMAK is established in Ankara in order to serve the Republic of Turkey’s needs on the fields of energy, mining, ionizing radiation, particle accelerators and nuclear technology and to conduct research and development activities to reach such goals.

TENMAK’s scope of activities is to (i) enhance the competitive capacity of the Republic of Turkey in the nuclear and mining fields, (ii) meet the needs of innovation, ensure the continuation of new product

generation and improvement of existing ones, (iii) provide scientific environment for researchers, in cooperation with relevant public and private legal authorities, (iv) coordinate and promote such researches, and (v) carry out scientific, technical and administrative studies. TENMAK embodies six institutes of research, each designated for a different field of discipline: (i) Institute of Boron Research, (ii) Institute of Research for Rare Earth Elements, (iii) Institute of Energy Research, (iv) Institute of Nuclear Energy, and (v) Institute of Clean Energy.

### EMRA’s Decision dated 26 March 2020 and numbered 9264-3

According to the Energy Market Regulatory Authority’s Decision dated 26 March 2020 and numbered 9264-3, published in the Official Gazette dated 28 March 2020 and numbered 31082, the provision pertaining to the period set forth for Coupon permit applications in Article 5(2) of the Decision regarding the Obligatory Storage of the Petroleum Stock as LPG within the Scope of the Coupon System dated 7 December 2017 and numbered 7494, shall not be applied for the year 2020. In addition, the stock amount held by the refinery license holder companies that have coupon service permissions shall be monitored within the scope of the Decision on Procedures and Principles Regarding the Stock Monitoring System dated 27 July 2017 and numbered 7204-9.

### EMRA Board Decision on the Active Electricity Energy Wholesale Tariff

The Energy Market Regulatory Authority (“EMRA”) published its decision dated 26 March 2020 and numbered 9269 with respect to the wholesale active electricity energy tariff which will be applied by the Electricity Generation Company (“EÜAŞ”) within the scope of Article 17 of the Electricity Market Law<sup>12</sup>. The following has been decided to be effective as of 1 April 2020:

- 22,8311 kr/kWh to be applied for (i) technical and non-technical loss energy sales made to the distribution companies and (ii) sales made to the authorized supply companies; and
- 27,9900 kr/kWh to be applied for sales made within the scope of the general lightning to the distribution companies.

### EMRA Board Decision on the New Tariffs

EMRA published its decision dated 26 March 2020 and numbered 9270 with respect to the new tariff tables.

<sup>11</sup> Published in the Official Gazette dated 28 March 2020 and numbered 31082.

<sup>12</sup> Published in the Official Gazette dated 30 March 2013 and numbered 28603.

Being effective as of 1 April 2020, the highlights of the said decision are as follows:

- New tariff tables will be applied to (i) distribution system users by distribution companies, (ii) non eligible consumers by the authorized supply companies and (iii) eligible consumers who cannot choose its own supplier but who are determined as consumers with low consumption as per the Communiqué on the Determination of the Final Resource Supply Tariff<sup>13</sup>.
- Calculations with respect to the abovementioned tariffs,  $k_1$  and  $k_2$  quotients under the Article 17 of the Communiqué on the Determination of the Retail Energy Sale Prices<sup>14</sup> will be applied as 0,05 for the companies whose October-December 2019 period's Q4 amounts & total realized energy cost of purchase ratio is above the average of the 21 authorized supply companies.

### **EMRA Board Decision on Extension of the Terms Due to COVID-19 Pandemic**

With the Energy Market Regulatory Authority's ("EMRA") decision dated 2 April 2020 and numbered 9276 ("Decision"), COVID-19 has been accepted as force majeure under Article 35 of the Electricity Market Licensing Regulation<sup>15</sup> ("Regulation") and Article 19 of the Regulation on Unlicensed Electricity Generation in Electricity Market<sup>16</sup> ("Regulation on Unlicensed Electricity Generation").

According to the Decision:

The terms of the liabilities of the legal entities holding a preliminary license or license under the Regulation that have expired on 10 March 2020 or after this date or to expire are extended for three months. The extension shall be valid from the expiry date and for once, without the need of any additional process. The extended terms are as follows:

- The preliminary license terms, the pre-construction period and the construction period within the generation license, and the terms postponing the liabilities under the Provisional Article 15 of the Regulation,
- The terms related to the liabilities under the amendment processes of preliminary license or generation license,
- The terms regarding the liabilities determined within the scope of merger or division,

- The terms regarding the liabilities determined within the scope of issuing generation license as the continuation of the previous one,
- The terms determined for the completion of the required documents under the applications for preliminary license or license,
- The terms regarding the applications foreseen under Article 18 (1) of the Regulation.

Also, the terms of the connection agreements, signed by natural or legal persons concerning the generation facilities established under the Regulation on Unlicensed Electricity Generation, that have expired on 10 March 2020 or after this date or to expire are extended for three months. The extension shall be valid from the expiry date and for once, without the need of any additional process.

### **EMRA's Decision dated 9 April 2020 and numbered 9292**

According to the Energy Market Regulatory Authority's decision dated 09 April 2020 and numbered 9292, it is decided that the distribution fee and/or system usage fee shall not be accrued over the energy produced before the temporary approval and supplied to the distribution network free of charge by the licensed/unlicensed electricity producers that are connected to the distribution network.

### **The Law on Reducing the Effects of the Novel Coronavirus (COVID-19) Pandemic on Economic and Social Life and the Law Amending Certain Laws**

The Law on Reducing the Effects of the Novel Coronavirus (COVID-19) Pandemic on Economic and Social Life and the Law Amending Certain Laws ("Omnibus Law") was published in the Official Gazette dated 17 April 2020 and numbered 31102. As mentioned in [an earlier client alert](#), the publication of the Omnibus Law was expected, as the draft was shared with the stakeholders.

The main novelties are as follows:

- The employers cannot terminate the employment or service agreements for a period of three months following 17 April 2020, except for behaviors violating moral and good faith principles or due to similar cases, under Labor Law<sup>17</sup> or other applicable laws.
- The employees who took unpaid leave as per the provisional Article 10 of the Labor Law and the ones whose employments were terminated after 15 March 2020 and unable to benefit from unemployment payments will receive an allowance in the amount of 39,24 Turkish Liras per day for

<sup>13</sup> Published in the Official Gazette dated 20 January 2018 and numbered 30307.

<sup>14</sup> Published in the Official Gazette dated 30 December 2015 and numbered 29578.

<sup>15</sup> Published in the Official Gazette dated 2 November 2013 and numbered 28809.

<sup>16</sup> Published in the Official Gazette dated 12 May 2019 and numbered 30772.

<sup>17</sup> Published in the Official Gazette dated 10 June 2003 and numbered 25134.

the period during which termination by the employer is prohibited.

- A provisional article was added to Turkish Commercial Code<sup>18</sup> (“**TCC**”). Accordingly, except for the companies in which the State, special provincial administration, municipality, village and other public legal entities hold more than 50% of the shares, the dividends to be distributed until 30 September 2020 must not exceed 25% of the 2019 net profit and such companies cannot distribute advance dividends either. If the general assembly has already resolved to distribute profit of 2019 accounting period; however, no payment has yet been made or partial payment has been made to shareholders, payments of the portion exceeding 25% of the 2019 net profit amount shall be postponed until 30 September 2020.
- Turkish Wealth Fund (“**TWF**”) was granted exemptions under Capital Markets Law<sup>19</sup> (“**CML**”) and TCC. Accordingly, the provisions of CML from Article 23 to 27 regarding significant transactions of corporations, retirement right, takeover bid, obligation regarding takeover bid and squeeze out and sell-out rights and Article 202 of TCC regarding unlawful conduct of dominance shall not apply to TWF, its companies and the sub-funds established by the TWF as well as the companies over which direct or indirect dominance has been established in favor of the above-mentioned entities, either solely or along with third parties, and limited only to the transactions regarding the establishment of such dominance, to the parties to such transactions, their direct or indirect shareholders, subsidiaries and affiliates.

## **EMRA’s Decision dated 16 April 2020 and numbered 9311**

According to the Energy Market Regulatory Authority’s (“**EMRA**”) decision dated 16 April 2020 and numbered 9311, it is decided that the predicted YEKDEM cost, approved via EMRA’s decision dated 26 March 2020 and numbered 9271, per supplied energy unit is amended as 228,12 TL/mWh for April 2020 within the scope of Article 14 of the Regulation on Certification and Endorsement of the Renewable Energy Resources<sup>20</sup>.

## **Temporary Article on Electricity Market Settlement Payments**

On 21 April 2020, the Energy Market Regulatory Authority (“**EMRA**”) has introduced a temporary article to the Electricity Market Balancing and Settlement

Regulation<sup>21</sup>, which has amended the principles governing the settlement payments to be made by EPIAŞ, the market operator, to the market participants.

In accordance with this temporary article, instead of making full payments in the order of receipt of the settlement invoices, EPIAŞ will make payments to the market participants in proportion of their receivables to the total amount collected by EPIAŞ from all market participants, within the scope of settlement procedure. Thus, the risk of a market participant failing to make its due payments to EPIAŞ will be distributed among the market participants and the ones that have failed to make payments will still receive a certain amount from EPIAŞ. In the event that any additional amounts have been collected by EPIAŞ until the next preliminary settlement notice (*ön uzlaştırma bildirimi*), this will also be distributed to the market participants pro rata to their receivables from EPIAŞ.

This method is foreseen to be applied for a period of three months (i.e. until 21 July 2020) and EMRA is authorized to extend such term up to six months.

## **6<sup>th</sup> Application Period of Türkiye Elektrik İletim Anonim Şirketi**

With the Energy Market Regulatory Authority’s decision dated 22 April 2020 and numbered 9319, the 6<sup>th</sup> application period where the parameters for the income/tariff regulation of Türkiye Elektrik İletim Anonim Şirketi will be applicable was determined as the term beginning from 1 January 2021 to 31 December 2023.

## **Temporary Article on Electricity Market Settlement Payments**

On 21 April 2020, the Energy Market Regulatory Authority (“**EMRA**”) has introduced a temporary article to the Electricity Market Balancing and Settlement Regulation<sup>22</sup>, which has amended the principles governing the settlement payments to be made by EPIAŞ, the market operator, to the market participants.

In accordance with this temporary article, instead of making full payments in the order of receipt of the settlement invoices, EPIAŞ will make payments to the market participants in proportion of their receivables to the total amount collected by EPIAŞ from all market participants, within the scope of settlement procedure. Thus, the risk of a market participant failing to make its due payments to EPIAŞ will be distributed among the market participants and the ones that have failed to make payments will still receive a certain amount from EPIAŞ. In the event that any additional amounts have been collected by EPIAŞ until the next preliminary settlement notice (*ön uzlaştırma bildirimi*), this will also

<sup>18</sup> Published in the Official Gazette dated 14 January 2011 and numbered 27846.

<sup>19</sup> Published in the Official Gazette dated 30 December 2012 and numbered 28513.

<sup>20</sup> Published in the Official Gazette dated 1 October 2013 and numbered 28782.

<sup>21</sup> Published in the Official Gazette dated 14 April 2009 and numbered 27200.

<sup>22</sup> Published in the Official Gazette dated 14 April 2009 and numbered 27200.

be distributed to the market participants pro rata to their receivables from EPIAŞ.

This method is foreseen to be applied for a period of three months (i.e. until 21 July 2020) and EMRA is authorized to extend such term up to six months.

## Draft Legislation

### Recent Amendments to the Procedures and Principles on Natural Gas Storage Obligations

On 17 March 2020, the Energy Market Regulatory Authority (“**EMRA**”) published the Draft Amendment to Procedures and Principles on Natural Gas Storage Obligations (“**Draft Amendment**”) to amend the existing Procedures and Principles on Natural Gas Storage Obligations (“**Natural Gas Storage Obligations**”)<sup>23</sup>, which regulates the storage obligations of legal entities holding natural gas export license and selling natural gas. The Draft Amendment had been made available to public comments for a period of 20 days. Main novelties of the Draft Amendment are as follows:

- (i) Suppliers who are directly selling locally produced natural gas to distribution companies and/or eligible consumers, and (ii) compressed natural gas (CNG) and/or liquid natural gas (LNG) sales to distribution companies will be exempted from the Natural Gas Storage Obligations;
- The obligation imposed on the suppliers to store a minimum of 95% of the natural gas at underground storage facilities per annum and the prohibition to transfer these compliantly stored natural gas to other distributors for the purposes of assisting the transferee distributors to reach the foregoing threshold will be revoked;
- The amount of locally produced natural gas subject to the sales by suppliers to distribution companies and/or eligible consumers, will now be notified to EMRA within the first week of January of the following calendar year, instead of the existing obligation to submit storage services agreements executed between the parties to EMRA; and
- The natural gas supply agreements to be executed by and between the suppliers and the distribution companies will be submitted to EMRA, during the first week of January following the calendar year of such agreement.

## Other News

### Public Announcement of Ministry of Energy and Natural Resources regarding COVID-19 and Mining Sector

The Ministry of Energy and Natural Resources (“**MENR**”) announced measures for the mining sector amid the COVID-19 pandemic. It is underlined that the mining industry plays a strategic role for various other sectors, especially for energy, manufacturing and construction. Therefore, protection and support of the mining activities constitute a crucial importance to preserve and enhance the production rates and continuity of employment in these fields. As such, certain protective measures adopted for the mining sector are as follows:

- Submissions dates of declarations such as survey reports, research projects, activity reports and operation projects are postponed from the end of April to 30 September 2020;
- The payment dates of certain financial obligations, such as state rights and license fees are postponed until 28 December 2020; and
- The foregoing postponements are also applicable to license holders and royalty holders which are located at Elazığ and Malatya provinces, that are directly affected from the earthquake dated 24 January 2020 which hit these provinces.

<sup>23</sup> Published in the Official Gazette dated 8 November 2016 and numbered 29882.

## **Çakmak Attorney Partnership**

Piyade Sokak, No. 18  
C Blok, Kat:3, 06550  
Çankaya, Ankara - Turkey

Zorlu Center, D Lobisi, T3 Katı,  
Daire 356, Levazım Mahallesi,  
Koru Sokak No:2 34340  
Beşiktaş İstanbul - Turkey

**T +90 312 442 4680**

**T +90 212 939 7560**

This information is provided for your convenience and does not constitute legal advice. It is prepared for the general information of our clients and other interested persons. This should not be acted upon in any specific situation without appropriate legal advice and it may include links to websites other than the website.

Çakmak Attorney Partnership has no responsibility for any websites other than its own and does not endorse the information, content, presentation or accuracy, or make any warranty, express or implied, regarding any other website.

This information is protected by copyright and may not be reproduced or translated without the prior written permission of Çakmak Attorney Partnership.