

# SIGNIFICANT AMENDMENTS TO THE REGULATION ON LICENSE-EXEMPT ELECTRICITY GENERATION

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The Regulation Amending the Regulation on License-Exempt Electricity Generation in the Electricity Market (“**Amendment Regulation**”) entered into force with its publication in the Official Gazette on 11 August 2022. The Amendment Regulation made significant amendments to the Regulation on License-Exempt Electricity Generation in the Electricity Market (“**License-Exempt Regulation**”).

According to the statement<sup>6</sup> published by the Energy Market Regulatory Authority (“**EMRA**”), the Amendment Regulation envisages license-exempt electricity generation to be based on the principle of "production pro-rata consumption", and accordingly, certain restrictions are made to the sale mechanism of excess electricity. The details of the implementation of these restrictions are set out under the Board Decision dated 4 August 2022 and numbered 11098 (the "**Board Decision**") which was published by EMRA simultaneously with the Amendment Regulation.

Significant amendments introduced by the Amendment Regulation are as follows:

## 1. Sale of Excess Electricity

For the persons who were entitled to an invitation letter to sign a connection agreement as a result of an application made after 12 May 2019, it has been decided that the excess amount subject to sale cannot exceed the total amount of electricity consumption of the associated consumption facility. The following rules will be applied with regards to the sale of excess electricity:

- The consumption amount of the consumption facility associated with a generation facility will be calculated as the total amount of electricity drawn from the grid in the previous calendar year (“**Previous Year Consumption**”).
- If the consumption of the relevant consumption facility in the current year exceeds the Previous Year Consumption, excess electricity subject to sale will be calculated by taking the current year data into consideration (“**Current Year Consumption**”).
- Excess electricity subject to sale will not exceed the Previous Year Consumption or, in the event where the Current Year Consumption exceeds the Previous Year Consumption, will not exceed the Current Year Consumption. Generation above such amount will be deemed as produced and fed into the grid by the authorized supply company and as a free of charge contribution to the Renewable Energy Resources Support Mechanism (“**YEKDEM**”).
- If there is no available consumption data for the previous year in such facilities, the Previous Year Consumption shall be calculated by taking into consideration the current monthly consumption average on an annual basis.
- No system utilization fee will be paid by the owner of the generation facility over the portion which is deemed as a free of charge contribution to YEKDEM.
- This regulation will not be applied to generation facilities associated with the residential subscriber group with an installed capacity of 50 kW or below.

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<sup>6</sup> <https://www.epdk.gov.tr/Detay/Icerik/2-12744/yeni-lisanssiz-elektrik-uretimi-yonetmeligi-%E2%80%A6>

EMRA gave the following example in its official statement in order to illustrate the Board Decision:

*“A person who consumed 1 million kWh electricity in the previous year can only sell 1 million kWh electricity in the current year following the monthly set-off. Payments will be made based on the sale of the excess energy starting with the first month of the year and generation above 1 million kWh will be considered as a 'free of charge' contribution to YEKDEM.”*

Although it has been stated that the above mechanism will pave the way for consumers that have real consumption but cannot establish a generation facility due to capacity limits and land issues, it has also been noted that provisions on "free of charge contribution" for excess electricity will negatively affect the financing structure of facilities that were structured and commissioned in accordance with the previous regulation.

## 2. Amendments Regarding OIZs

- The obligation to locate the generation facility and its associated consumption facility within the same OIZ distribution area has been abolished. Thus, generators who cannot find a suitable land in the OIZ can hereinafter establish a generation facility outside the OIZ.
- License-exempt generation facilities to be established by legal persons holding an OIZ distribution license will be associated with meters located at the connection points and set-off procedures will be carried out based on such meters. The association procedures of the generation facilities which have not yet been associated will be completed by 28 February 2023 at the latest by TEİAŞ and relevant distribution companies.

## 3. Amendments Related to Generation Under Article 5(1)[h]

Amendments introduced by the Amendment Regulation relating to the generation facilities established under Article 5(1)[h] of the License-Exempt Regulation<sup>7</sup> are as follows:

- The obligation to locate consumption and generation facilities within the same distribution area has been abolished.
- Two conditions have been introduced for the generation facilities to be connected to the transmission system: (i) the installed capacity must require connection to the transmission system or (ii) the consumption facility must be connected to the grid at the transmission level for the facilities at the same measurement point.
- In case there is a request to establish a generation facility up to twice of the contractual power at the same measurement point, power increase of the transformers can be requested, provided that contractual power in the withdrawal-side in the relevant connection agreement remains constant for the persons with private transformers.
- In cases where facilities within the scope of Article 5(1)[ç] of the License-Exempt Regulation<sup>8</sup> and Article 5(1)[h] are established together at different measurement points, excess electricity fed into the grid as a result of monthly set-off will be considered as a free of charge contribution to YEKDEM.
- Provided that existing consumption facilities associated with generation facilities under Article 5(1)[c] of the License-Exempt Regulation<sup>9</sup> for which a letter of invitation is issued, connection agreement is signed or approval procedures are completed remain the same, consumption facilities in different measurement points can be affiliated and such facilities can be transferred to the scope of Article 5(1)[h].

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<sup>7</sup> Article 5(1)[h]: "Generation facilities based on renewable energy resources established in the same or different measurement point as their consumption facilities, limited to the double the amount of their contractual power in the relevant connection agreement for the municipalities and their affiliates, industrial facilities and agricultural irrigation facilities, and limited to the contractual power in the relevant connection agreement for other persons."

<sup>8</sup> Article 5(1)[ç]: "Generation facilities based on renewable energy resources that use all the energy they generated without giving it to the transmission or distribution system, and whose generation and consumption is at the same measurement point."

<sup>9</sup> Article 5(1)[c]: "Generation facilities based on renewable energy resources with an installed capacity of one MW or up to the upper limit of installed capacity determined by the President."

#### 4. Other Important Amendments

- For the projects subject to Annex-1 of the EIA Regulation<sup>10</sup> and for those with a "EIA Required" decision, facilities which applied for connection agreement must now apply to the relevant administration within 30 days of the issuance of letter of invitation.
- The maximum acceptance periods for facilities have been amended depending on the type of transformers to be used.
- All generation facilities under the License-Exempt Regulation will be exempt from availability fee, regardless of their installed capacity. Prior to the Amendment Regulation, such exemption was only granted to the facilities with an installed capacity up to 5 MW.
- In addition to businesses that have cogeneration power plants, persons who established generation facilities pursuant to Article 5(1)[ç] of the License-Exempt Regulation but could not establish more facilities at the same point will be allowed to establish facilities at different measurement points in order to meet their consumption.
- In cases where cogeneration facilities and facilities established under Article 5(1)[h] of the License-Exempt Regulation are established together, the excess electricity fed into the grid after set-off will be considered within the scope of YEKDEM, provided that they are in different measurement points.

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<sup>10</sup> Environmental Impact Assessment Regulation published in the Official Gazette dated 29 July 2022 and numbered 31907.