

# Law on Utilization of Renewable Energy Resources for the Purpose of Generating Electrical Energy

**Law No. 5346**

**Ratification Date: 10.05.2005**

**Enactment Date: 18.05.2005**

## SECTION ONE

### Purpose, Scope, Definitions and Abbreviations

#### **Purpose**

**Article 1–** The purpose of this Law is to expand the utilization of renewable energy resources for generating electrical energy, to benefit from these resources in secure, economic and qualified manner, to increase the diversification of energy resources, to reduce greenhouse gas emissions, to assess waste products, to protect the environment and to develop the related manufacturing sector for realizing these objectives.

#### **Scope**

**Article 2–** This Law encompasses the procedures and principles for conservation of the renewable energy resource areas, certification of the energy generated from these resources and utilization of these resources.

#### **Definitions and Abbreviations**

**Article 3–** The terms used in this Law are defined as follows;

1. **The Ministry:** Ministry of Energy and Natural Resources,
2. **EMRA:** Energy Market Regulatory Authority,
3. **DSİ:** General Directorate of State Water Works,
4. **EİE:** General Directorate of Electrical Power Resources Survey and Development Administration,
5. **TEİAŞ:** Turkish Electricity Transmission Company Inc.,
6. **MTA:** General Directorate of Mineral Exploration and Research,
7. **TETAŞ:** Turkish Electricity Trading and Contracting Company Inc.,
8. **Renewable energy resources:** Non-fossil energy resources such as hydraulic, wind, solar, geothermal, biomass, biogas, wave, current and tidal energy,
9. **Biomass:** The fuels in solid, liquid or gaseous phase obtained from organic wastes and from the agricultural and forestry products including the waste products of agricultural harvesting and oil extraction from plants as well as from the by products formed after their processing,
10. **Geothermal resource:** The natural water, steam and gases comprising melted substances and gases with temperature permanently higher than the regional

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atmospheric average due to the natural heat in the earth crust and water as well as vapor and gases obtained from hot dry rocks,

**11. Renewable energy resources in the scope of this Law:** The electrical energy generation resources suitable for wind, solar, geothermal, biomass, biogas, wave, current and tidal energy resources together with hydraulic generation plants either canal or run of river type or with a reservoir area of less than fifteen square kilometers,

**12. Turkish average wholesale electricity price:** The average of the wholesale prices of electricity calculated by EMRA and applied in the country annually.

## SECTION TWO

### Identification, Conservation and Utilization of Renewable Energy Resource Areas and Certification of the Electrical Energy Generated from Renewable Energy Resources

#### **Identification, conservation and utilization of the resource areas**

**Article 4-** Following the effectiveness of this Law, no development plan affecting the utilization and efficiency of renewable energy resource areas shall be prepared in the public or Treasury territory. The procedures and principles for identification, conservation and utilization of geothermal resource areas for electrical energy generation shall be specified in regulation.

#### **Renewable Energy Resource Certificate**

**Article 5-** The legal entity holding generation license shall be granted by EMRA with a “Renewable Energy Resource Certificate” (RES Certificate) for the purpose of identification and monitoring of the resource type in purchasing and sale of the electrical energy generated from renewable energy resources in the domestic and international markets.

The procedures and principles of the RES Certificate shall be specified in the regulation.

## SECTION THREE

### The Implementation of Procedures and Principles in the Electrical Energy Generation from Renewable Energy Resources

#### **Principles of Implementation**

**Article 6-** The legal entities holding licenses to generate and transact electricity from the renewable energy resources in the scope of this Law are subject to the principles of implementation specified hereunder:

a) The electrical energy generated from the renewable energy resources in the scope of this Law shall be purchased by the legal entities holding retail sale license on the basis of bilateral agreements to be concluded in pursuance with the provisions of paragraphs (b), (c) and (d) of this article.

b) Within the framework of prepared projection by the Ministry, the relevant information on amount of RES certified electrical energy, which shall utilize the implementations in the scope of this Law, shall be issued by EMRA annually. Each

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legal entity holding retail sale license shall be entitled to purchase RES certified electrical energy in an amount declared by EMRA considering the proportion of the energy amount he has sold within the previous calendar year to the total electrical energy amount which all legal entities holding retail sale license offered for sale in Turkey.

In case the total electrical energy amount with RES certificate is sufficient, the legal entities holding retail sale license shall be entitled to purchase RES certified electrical energy not lower than eight per cent of the electrical energy they have sold in the previous calendar year.

c) Until the end of 2011, the applicable price for the electrical energy to be purchased in pursuance with this Law within each calendar year shall be the Turkish average wholesale electricity price in the previous year determined by EMRA. The Council of Ministers is entitled to raise this price up to 20 % at the beginning of each year.

d) As of the end of 2011, this pricing methodology shall not be applicable for the RES certified electrical energy generation plants which are under operation for more than seven years. The retail sale companies shall purchase the RES certified electrical energy, which they are obliged to purchase on the basis of the provisions of this Law, primarily from those plants which have not yet completed a business period of seven years, in accordance with the pricing methodology laid down in part (c) of this article, and in case the purchased amount of electrical energy is less than the ratio specified in part (b) of this article, they shall buy the remaining amount, until reaching the ratio referred hereof, through bilateral agreements at the price formed in the market without exceeding the Turkish average wholesale electricity price.

## SECTION FOUR

### Principles of Implementation Regarding Investment Period

#### **Investment Period Implementations**

**Article 7**–The real persons and legal entities establishing an isolated electricity generation plant and grid supported electricity generation plant by utilizing hydraulic resources with a maximum installed capacity of 1000 kW for meeting solely their own demands, shall not be claimed to pay the amounts of service for the projects, of which final designing, planning, master planning, preliminary surveying and first auditing were prepared by either DSI or EİE.

Within the framework of this Law;

- a) Investments on energy generation facilities;
  - b) Procurement of domestically manufactured electromechanical systems;
  - c) Investments on research and development and manufacturing in the scope of the electricity generation systems by utilizing solar cells and concentrated collectors;
  - d) Investments on research and development facilities for generation of electrical energy or fuels by utilizing biomass resources;
- can benefit from the incentives determined by the Council of Ministers.

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The heat energy needs of the residential areas in the boundaries of the province and municipalities in the regions with sufficient geothermal resources shall be met primarily by geothermal or solar thermal resources.

### **Implementations related to Acquisition of Land**

**Article 8**– In case of utilization of all sorts of property which is under the possession of Forestry or Treasury or under the sovereignty of the State for the purpose of generating electrical energy from the renewable energy resources in the scope of this Law, these territories are permitted on the basis of its sale price, rented, given right of access or usage permission by Ministry of Environment and Forestry or Ministry of Finance. Fifty percent deduction shall be implemented for permission, rent, right of access and usage permission in the investment period. ORKOY and forestation special allowance revenue shall not be charged in forested land.

## SECTION FIVE Various Provisions

### **Coordination of the Implementations**

**Article 9**– The Ministry shall provide coordination in implementation, steering, monitoring and assessment of the fundamental principles and obligations specified in this Law, and in planning the measures to be undertaken.

### **Sanctions**

**Article 10**– The legal entities holding retail sale license who breach the provisions of Article 6 of this Law shall be charged administrative fine of 250 billion TL by EMRA and shall be warned to eliminate the violation in sixty days.

In case the activities that necessitate imposing a fine are not corrected or repeated, the amount of fine is doubled every time. If the same action is not taken in a two year period that necessitates imposing the same administrative fine, the preceding fines are not taken into account. But the increased fine that will be imposed if the action is taken more than once in two year period cannot be more than ten percent of the legal entity's gross income in the balance sheet. If the fine reaches to this level, EMRA may cancel the license.

### **Regulations**

**Article 11**– The regulation related to 5<sup>th</sup> Article of this Law and the other regulations shall be prepared and put into force by the EMRA and the Ministry, respectively, within four months after the date of effectiveness of this Law.

**Article 12** – The Annex Article 1, annexed to the Law on DSI's Organization and Duties, dated 18/12/1953 and numbered 6200, under article 18 of the Law dated 22/02/2001 and numbered 4628 is changed as follows.

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Additional Article 1 - The sections related with energy generation of the hydroelectric power stations, constructed, commissioned and to be commissioned by DSI and heir complementary immovables shall be transferred to the general management of Electricity Generation Company Inc., without payment, at the prices to be determined by considering their construction prices, their operation times, the repayments transferred to the Public Partnership Fund after such plants are completed and the financial liabilities arisen from foreign project credit facilities provided by the Treasury Under secretariat and allocated to DSI for such plants. A loan agreement shall be executed between the Treasury Under secretariat and the general management of Electricity Generation Company Inc. for the Electricity Generation Company Inc. to undertake the payments to be made by the Treasury Under secretarial during the years following the date of transfer for the portion of such foreign loans corresponding to energy generation purposes.

The procedures and principles of transfer shall be prepared by the Ministry of Energy and Natural Resources and the Treasury Undersecretariat and they shall be determined by a regulation to come into force upon a resolution by the Council of Ministers.

Transfer transactions shall be exempt from all kinds of taxes and duties.

**Article 13** - Article 11 of the “Expropriation Law”, dated 4/12/1984 and numbered 3096, is amended as follows:

Article 11. - Expropriation shall be carried out by the Ministry of Energy and Natural Resources under the Law 4650, pursuant to the approved application projects of the generation, transmission and distribution plants to be constructed by companies in charge, if expropriation is required, provided that the expropriation costs are covered by the company in charge, except for hydropower plants with a reservoir. Expropriation costs for such plants shall be covered by the Treasury from an allocation to be put in the budget of the Ministry.

The provision amended by this article shall apply to those projects, whose contracts have been executed under the law 3096, but not put into operation yet.

**Provisional Article 1** – The legal entity that take place among the existing contracts, as defined by Electricity Market Law numbered 4628 and in the scope of the build – operate – transfer model, which is not in operation and which will generate electricity from renewable energy resources under this Law shall utilize the applications in this Law, provided that they should waive their rights arisen from existing contracts. EPDK shall grant generation licenses to such projects.

**Provisional Article 2** – Public distribution companies holding a retail sale license shall be exempt from the purchase obligations under article 6 of this Law, up to 01.01.2007, except for the Ministry’s and EMRA’s existing regulations and applications. However, they shall contract electricity sales agreements with legal entities holding a RES–certified generation license, for purchase obligations, to be effective from 01.01.2007.

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**Provisional Article 3** – The projection stated in article 6 of this law shall be published by the Ministry within three months after effectiveness of this Law. However, such projection shall cover those projects, whose generation licenses have been granted by EMRA before effectiveness of this Law and those projects, among those existing contracted ones as defined in provisional article 1, whose licenses would be awarded under this law.

**Provisional Article 4** – DSI energy contribution shares, shown in US\$ in the contracts of build – operate – transfer model hydroelectric power stations, in operation under their existing contracts and their DSI contribution shares are paid by TETAŞ through tariff, shall be paid to DSI, in an amount as shown in the contract, at the foreign exchange rate of the Central Bank on the date of payment, at the end of every operation year.

The installation charges to be taken as basis in the calculation of the energy contribution share to be defined for hydraulic plants installed or to be installed under the law numbered 4628 and to be paid to DSI shall not exceed the 30 % of the first estimated value that forms basis to the tender which is the amount at the date of the agreement on water use updated by using Wholesale Price Index as a deflator. Of the amounts paid or to be paid in relation to the expropriations for the projects, the amount corresponding to energy share from the amount at the date of the agreement on water use, (updated by) using Wholesale Price Index as a deflator, shall be paid in whole by the company.

#### **Effectiveness**

**Article 13**– This Law shall be effective on the date of its publication.

#### **Enforcement**

**Article 14**– The provisions of this Law shall be enforced by the Council of Ministers.

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