

Unlicensed Electricity Generation in the Electricity Market

Unlicensed electricity generation in the electricity market is regulated by the Regulation on Unlicensed Electricity Generation in the Electricity Market (the Regulation) dated 2 October 2013 and numbered 28783. The latest amendment to the regulation which was made on 17 January 2018 sets out new changes with regard to provisions on connection and system utilisation, applications for connection, connection point selection, generation facilities to be put into operation and transfer of generation facilities.

Among others, the following electricity generation facilities are exempt from licensing requirements under the Regulation:

- generation facilities based on renewable energy resources with an established power of one megawatt;
- generation facilities based on renewable energy resources with an established power upper limit determined in accordance with the Counsel of Ministers' decision (where the Ministry of Energy and Natural Resources could increase the established power upper limit up to five times); and
- generation facilities based on renewable energy resources that use all their generated energy without providing it to a transmission or distribution system, and whose generation and consumption are at the same point of measurement.

Transfer of generation facility

The new amendment provides that generation facilities within the scope of the Regulation and whose temporary acceptance has been granted may be transferred to real or legal persons, pursuant to this Regulation or other legislation, who fulfil the conditions for the capacity allocation of the transferor. Apart from generation facilities based on wind and solar energy and that are approved by the Ministry of Energy and Natural Resources or the institution authorised by the Ministry as regards the prototype projects to be prepared up to 10 kW, generation facilities whose temporary approval has not been granted shall not be subject to transfer.

The transferor or the transferees, either of which may be real or legal persons, shall concurrently notify the Relevant Network Operator prior to the transfer. The Relevant Network Operator, upon finding the application to be full and complete, shall finalise the application within 30 days. The transfer will have no effect before the Relevant Network Operator unless the connection agreement and system utilisation agreement are signed by the transferee.

As regards transfers pertaining to generation facilities based on hydraulic resources, in addition to the process mentioned in the paragraph above, the permit for a water utilisation right in the name of the transferee shall be presented. Prior to the signing of the connection agreement and the system utilisation agreement, the permit shall be presented to the Relevant Network Operator.

Importantly, in the case where limited or irrevocable project financing is provided to a generation facility by banks and/or financial institutions, the banks and/or financial institutions may, pursuant to the agreement, serve a reasoned notification to the Relevant Network Operator stating that they will undertake all obligations concerning the transfer of the generation facility to another real or legal person that they will propose in accordance with this Regulation and also may request a connection agreement and a system utilisation agreement to be signed with the relevant real or legal person. If a breach of agreement is documented, real or legal persons notified by the banks and/or financial institutions shall sign connection and system utilisation agreements within the scope of the transfer of the generation facility. The generation facility transfers within this scope shall be notified by the Relevant Network Operator to the Energy Market Regulatory Authority within ten business days. The first paragraph shall not apply to generation facilities mentioned in this paragraph.

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