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Overview of Electricity Regulation in Turkey (2014)

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Electricity Market

1. Provide an overview of the electricity market in your jurisdiction, including recent trends over the last 12 months.

Overview

The Turkish energy sector has grown quickly in recent years. As a result, up-to-date regulations are required to ensure that the laws for the sector match sector requirements and economic realities. Continued privatisation of the energy sector has reduced the role of public institutions with the aim of creating a more competitive and liberal energy market.

The main law applicable to the Turkish electricity market is the Electricity Market Law numbered 6446 (EML). The EML regulates the obligations of all real persons and legal entities directly involved in the generation, transmission, distribution, wholesale supply, retail supply, import, and export of electricity in Turkey. The EML entered into force on 30 March 2013 with the explicit purpose of establishing a more stable, strong, and transparent electricity market in Turkey.

Background to the Electricity Market Law. Prior to the EML, the Electricity Market Law numbered 4628 applied. The Electricity Market Law numbered 4628 was not completely repealed with the enactment of the EML. Rather, its title was changed to become the Law on the Organisation and Duties of the Energy Market Regulatory Authority (EMRA Law), with some parts superseded by the EML.

The EMRA Law came into force in 2001 with the explicit purpose of creating a more liberalised electricity market, while also:

- Securing an adequate, uninterrupted, economically viable, competitive and environmentally friendly electricity supply.
- Ensuring the market's financial strength, stability and transparency.

The EMRA Law established the Energy Market Regulatory Authority (EMRA) with the purpose of creating a mechanism to realise the EMRA Law's purposes. Accordingly, the EMRA was established as, and continues to be, an independent authority responsible for the regulation and supervision of the Turkish electricity market.

The EMRA Law was amended a number of times to ensure that it continued to address the electricity market's needs. Despite these reactive amendments, the EMRA Law reached a point where it no longer presented a sound legal basis for meeting the needs of the rapidly growing and changing electricity market, including the needs of industry participants as well as regulatory bodies.

Accordingly, the Ministry of Energy and Natural Resources (MENR) began working on developing the current EML in 2012 with the aim of:

- Ensuring the Turkish electricity market complies with EU regulations.
- Improving the market's attractiveness to investors.

Provisions in the EMRA Law remain in effect regarding the EMRA's organisation and duties.

Recent trends

Changes to the regulatory framework introduced by the EML include reforms to market structure and operation (such as the establishment of a wholesale energy trading market), as well as practical reforms (such as licensing procedures).

A notable change was the establishment of the Energy Markets Operation Joint Stock Company (*Enerji Piyasalar? ??letme Anonim ?irketi, (EP?A?)*). Under the EML, market operation activities are no longer carried out by the Market Financial Conciliation Centre (as under the EMRA Law), but rather by the newly established EP?A?. From the second quarter of 2014 onwards, EP?A? will operate the wholesale electricity markets, including financial conciliation activities for these markets. Market operation activities are defined under the EML and the right to undertake them becomes subject to obtaining a market operation licence from the EMRA. EP?A?' organisational structure and working principles will be defined in secondary regulation, but the EMRA has not announced an expected date for this regulation yet.

A recent development under the EML is electricity generation without generation licences. Provided certain requirements outlined in the EML are met, some renewable electricity generation plants are exempt from having to obtain a generation licence from the EMRA and incorporate a company (see Question 7). Consequently, barriers to developing small scale renewable generation plants are being reduced.

The EML also introduced a preliminary licence requirement for the commencement of generation activities. The preliminary licence framework provides limited authorisation to generation licence applicants, in order for them to:

- Obtain the approvals, permissions, licences and similar authorisations needed to start the generation plant investments.
- Become entitled to acquire property and usufruct rights pertaining to the site where the generation plant will be constructed.

Other features of the EML include:

- The EML does not allow the generation licence applicants to carry out generation activities unless the preliminary licence has been obtained.
- There is a 24-month time limit on pre-construction licences, reportedly in response to the hoarding of licences by companies which invest in renewables only to diversify without any strategic interest in the sector.
- Generation pre-licence holders are not allowed to change their shareholding and control structures and/or to transfer the preliminary licences to third parties before obtaining a generation licence. This basically means that any party which is interested in developing an energy project should apply for the licence itself and obtain the licence first hand from the EMRA.

Regulatory structure

2. **Describe the regulatory framework for the electricity sector, including the regulatory authorities.**

Regulatory framework

The Electricity Market Law numbered 6446 (EML) is the main piece of legislation for the Turkish electricity sector. The implementation and interpretation of new mechanisms introduced by this legislation are outlined by secondary legislation. Some secondary legislation has been introduced and more is expected.

The most notable piece of secondary legislation in this area is the Electricity Market Licensing Regulation (Licensing Regulation) published in the Official Gazette on 2 November 2013. The Licensing Regulation introduces a new licensing regime, intended to reform and stimulate the market.

Other key pieces of legislation and regulation related to electricity generation, distribution and supply activities include:

- The Renewable Energy Law, numbered 5346.
- The Energy Efficiency Law, numbered 5627.
- The Nuclear Energy Law, numbered 5710.
- The Geothermal Energy Law, numbered 5686.
- The Electricity Market Balancing and Settlement Regulation.

Regulatory authorities

In Turkey, there are two main governmental authorities regulating the electricity market:

- The Ministry of Energy and Natural Resources (MENR).
- The Energy Market Regulatory Authority (EMRA).

The MENR. The MENR has the following functions:

- Determining Turkey's short- and long-term requirements for energy and natural resources.
- Planning appropriate policy objectives for procurement.
- Supervising all exploration, facility building, development, production, and distribution activities for energy and natural resources.
- Co-ordinating a range of public entities, including:
    - the Electricity Generation Company (Elektrik Üretim A.?, (EÜA?)), the state-owned generation company;
    - the Turkish Electricity Distribution Company (Türkiye Elektrik Da??t?m A.?, (TEDA?)), the state-owned distribution company;
    - the Turkish Electricity Transmission Company (Türkiye Elektrik ?letim A.?, (TE?A?)), the state-owned transmission company;
    - the Turkish Electricity Trading and Contracting Company (Türkiye Elektrik Ticaret ve Taahhüt Anonim ?irketi, (TETA?)), the state-owned trade and contracting company which operates as a wholesale supply company.

The EMRA. The EMRA is an autonomous authority responsible for:

- Regulating and supervising the electricity market.
- Monitoring all energy market activities and has the power to:
    - issue licences for generation, transmission, distribution and supply;
    - prepare, enforce, amend, and implement electricity market legislation in order to create performance standards;
    - establish and supervise the tariff pricing mechanism for consumers which legislation prevents from choosing their own retail supplier;
    - impose sanctions for improper activities (for example, monetary penalties or licence suspension); and
    - resolve disputes between licence holders.

Electricity Companies

3. What are the main companies involved in electricity generation, transmission, distribution and supply in your jurisdiction?

In Turkey, generation, transmission, distribution and supply of electricity are undertaken by different companies. In recent years, private companies have been allowed to carry out these activities as a result of liberalisation in the electricity market.

Generation

As of 2013, around 63% of Turkey's installed generation capacity is privately owned. The 62,475 MW total installed capacity is made up of:

- Independent power producers (42.8%).
- EÜA? (the state-owned generation company) (37.1%).
- Build-operate power plants (9.5%).
- Auto producers (5.4%).
- Build-operate-transfer power plants (3.6%).
- Companies operating under transfer of operational rights agreements (1.5%).

In 2013, new power plants with a combined capacity of 6,985 MW were added to the system. 97.7% (6,821 MW) of the additional capacity is made up of private sector generation. The Turkish government aims to have 100 GW of installed capacity by 2023.

Transmission

Electricity transmission is managed by TE?A?, a state-owned company with a legislatively mandated monopoly on the Turkish electricity transmission network. TE?A? comprises 21 separate transmission, facility and management directorships and ten load dispatch operation directorates located around Turkey.

Distribution

Electricity distribution is divided into 21 separate regions. Each region is controlled by private distribution companies which have each obtained distribution licences from the EMRA. Before the privatisation process was initiated, the state-owned company TEDA? controlled all electricity distribution.

Supply

Electricity supply in Turkey is undertaken by numerous private sector companies, as well as the state-owned TETA?. Each supplier must obtain a supply licence from the EMRA.

The EMRA Law required separate licences for undertaking wholesale and retail activities. With the Electricity Market Law numbered 6446 (EML), the separate wholesale and retail licence system has been abolished and these two licences are combined into a single supply licence. Supply licence holders are entitled to carry out wholesale and/or retail activities under the same licence, without obtaining further approval from the EMRA.

Unbundling Requirements

From 1 January 2013, electricity distribution companies are required to separate their distribution and retail activities (Article 23, the now repealed former Licensing Regulation dated 4 August 2002).

A decision by the EMRA required a partial demerger of electricity companies so that distribution and retail supply activities are undertaken by separate legal entities (Procedures and Principle regarding Legal Unbundling of Distribution and Retail Sale Activities, dated 12 September 2012).

The EML and Licensing Regulation jointly require distribution companies to carry out generation and wholesale supply operations under separate legal entities. This requirement carries forward principles regarding legal unbundling of distribution and wholesale activities which were established in earlier legislation and an EMRA decision.

Foreign Ownership

4. Are there any restrictions concerning the foreign ownership of electricity companies in your jurisdiction?

The Electricity Market Law numbered 6446 (EML) does not specifically address foreign investors and there are no specific restrictions on foreign ownership of electricity companies in Turkey. Foreign investors are not subject to any entry barriers, or restrictions on capital amount, capital transfer, or currency conversion.

Import of electricity

5. To what extent is electricity imported in your jurisdiction and are there interconnection issues?

Approximately 50% of the energy consumed in Turkey is imported and according to the World Bank group, over 60% of Turkey's production relies on imported energy. The Turkish government aims to increase energy security by reducing this foreign dependency, focusing on untapped potential in wind, geothermal and hydro generation.

Supply licence holders may import or export electric energy and/or capacity to or from foreign countries, provided the country meets the technical conditions for international interconnection and the licence holder obtains the EMRA's approval. The conditions for international interconnection are defined in the Regulation on Export and Import regarding Electricity Market, published in the Official Gazette on 1 June 2011.

In 2013, the European Network of Transmission System Operators for Electricity's (ENTSO-E) Regional Group Continental Europe (RG CE) announced positive results from a trial operation which tested the viability of the Turkish electricity transmission system in connection with the Continental Europe system.

TE?A?, the state-owned transmission company, publicly announced that after its assessment of the rules and technicalities outlined in the ENTSO-E RG CE handbook, it anticipates signing a long-term contract with ENTSO-E, binding them to permanently comply with ENTSO-E's standards. TE?A? has not indicated an expected date for this.

Supply licence holders are entitled to undertake wholesale and/or retail sales within Turkey without being subject to any regional restrictions.

Electricity Generation and Renewable Energy

6. What are the main sources of electricity generation in your jurisdiction?

According to statistics published by the Ministry of Energy and Natural Resources (MENR), in 2012, the sources of electricity generation in Turkey are:

- Natural gas (46%).
- Lignite and coal (24%).
- Hydro (25%).
- Wind and geothermal (2%).
- Other sources (3%).

Fossil Fuels

According to statistics published by the MENR, in 2012, fossil fuels constitute approximately 70% of total electricity generation in Turkey.

Nuclear Fission

Not currently applicable. However, since nuclear projects are under way, this percentage will increase in the short to medium term.

Renewable Energy

According to statistics published by the MENR, in 2012, the main renewable sources and their share in the total energy electricity generation in Turkey were:

- Wind and geothermal (3%).
- Hydro (23%).

Despite debates on the international stage about whether hydro is appropriately deemed to be a renewable energy resource or not, Turkish regulation accepts hydro energy as being renewable energy. Turkish regulation specifically includes hydro energy within the definitions of renewable energy resources (Article 4, the Licensing Regulation; Article 3, the Renewable Energy Law numbered 5346).

7. **Are there any government policies, targets or incentives in place to encourage the use of renewable energy?**

Government policies/incentives

Renewable energy is regulated in Turkey by the Law on Utilisation of Renewable Energy Sources for the Purpose of Generating Electrical Energy numbered 5346 (Renewable Energy Law). This legislation came into force in 2005 and is the first renewable energy law in Turkey.

Entities which have a renewable energy generation licence can apply to the EMRA for a Renewable Energy Resource Certificate (RER certificate). The RER certificate allows the certificate holder to benefit from the RER support mechanism, including regulated fees, procedures and principles applicable to renewable energy generation. RER certificate holders are given the opportunity to sell their generated capacity to the RER support mechanism.

The RER support mechanism contains certain incentives to encourage the generation and use of renewable energy:

Purchase guarantee. Default electricity suppliers in an area are required to purchase a certain amount of electricity from companies participating in the RER support mechanism. Where the renewable generator chooses to sell their capacity to the RER support mechanism, a minimum price per kWh is set by regulation. To be eligible to receive this price, the generator must apply annually indicating that they wish to sell their capacity to the RER support mechanism. Generators may do this for up to ten years from when the renewable generation plant is commissioned. The current minimum rates are (effective until 31 December 2015):

- hydroelectric generation plant, US$ cent/kWh 7.3;
- wind power plant, US$ cent/kWh 7.3;
- geothermal power plant, US$ cent/kWh 10.5;
- biomass energy plant (including landfill gas), US$ cent/kWh 13.3;
- solar power plant, US$ cent/kWh 13.3.

Regulated rate for energy produced using domestically manufactured components. If generation plants use mechanic and/or electro-mechanic devices which are manufactured in Turkey, electric energy generated in these plants and fed into the transmission or distribution systems (not consumed on-site) is eligible for a regulated

minimum rate. The components which must be domestically manufactured to qualify for this rate include:

- electromechanical systems;
- research, development, and manufacturing of electricity generation systems using solar cells and focusing units;
- research and development for the generation of electric energy or fuel using biomass sources.

Generation licences for solar facilities. The Electricity Market Law numbered 6446 (EML) states that if the owner of a site intended for generation of solar electricity files a licence application to the EMRA, no other applications for the same site can be filed. According to the EML, the following renewable energy facilities are exempt from needing to obtain a generation licence from the EMRA or incorporate a company:

- renewable energy generation plants which have a maximum installed capacity of 1 MW;
- renewable energy generation plants where 100% of the energy generated is consumed on the same site, without feeding any capacity into the transmission or distribution system.

Renewable energy targets

While there are no legally binding targets, the Turkish Minister of Energy and Natural Resources has publicly stated that the target is for renewable energy resources to reach 30% of the total energy production by 2023. Based on figures from the MENR, this figure sat at approximately 27% in 2012. The EMRA estimates that Turkey has 45 GW of hydropower potential, 48 GW of wind potential and 600 MW of geothermal power potential. Both the EBRD and World Bank have EUR1 billion loan programs in place for clean energy projects in Turkey. Turkey aims to improve energy production as the amount of imported energy is one of the main contributors to the Turkish economy's current deficit, with over 60% of Turkey's production relying on imported energy. The Turkish Statistics Authority states that during 2012, energy comprised 25% of all imports into Turkey.

8. What are the main obstacles to the development of renewable energy in your jurisdiction?

Complicated bureaucratic and administrative procedures represent a major obstacle to renewable energy development in Turkey.

Another major obstacle to renewable energy development is the inadequacy of incentives. Lengthy discussions about these incentives by the Turkish parliament contributed to the late enactment of the Law on Utilisation of Renewable Energy Sources for the Purpose of Generating Electrical Energy numbered 5346 (Renewable Energy Law).

The length of the preparation phase while the investor tries to obtain all the necessary permits can hamper development of renewable energy in Turkey. Projects are often challenged with administrative lawsuits, particularly on the basis of environmental issues.

Frequent changes in secondary legislation reduce the perception of market predictability for foreign investors. For wind projects in particular, obtaining a generation licence takes a long time due to the frequent changes in legislation. These changes have resulted in uncertainties and additional costs for investors.

The licence and permission processes for renewable energy are overseen and maintained by different administrative authorities. As a result, gathering all these permissions and starting the construction process involves a major investment of time for potential applicants.

In certain cases, conflicts in the regulatory framework mean that local authorities do not recognise the actions of central government administrative authorities.

Expropriation of the necessary rights is a complicated process which, in almost all cases, continues after the projects start generation. Therefore, it is very difficult to calculate costs associated with such procedures.

To encourage foreign investment and strategic partnerships, the Turkish government must make the process for obtaining generation licences more stable and streamlined, as well as improve incentives available to renewable generation developers.

9. **Are there any plans to build new nuclear power stations in your jurisdiction?**

Government policy

Turkey has discussed establishing nuclear power generation since 1970. Today, plans for nuclear power are a key aspect of the country's economic growth plan and there are plans underway to build two nuclear power stations in Turkey, with a combined capacity of 10,400 MW.

The Nuclear Energy Law numbered 5710 came into force in 2007 and establishes a framework to provide incentives to private sector companies to construct and operate nuclear power plants. This framework includes:

- Empowering the Council of Ministers to provide incentives for investment regarding technology acquisition for nuclear power plants and also training of personnel to be employed in those power plants. No such incentives have been announced yet.
- Empowering the Ministry of Finance and Council of Ministers with the discretion to grant a licence for the access and use of the proposed nuclear generation site, free of charge.

The Akkuyu nuclear power plant project

The Akkuyu nuclear power plant will be Turkey's first nuclear power plant with the estimated cost of construction and related procurement being around US$20 billion. According to an inter-governmental agreement signed on 12 May 2012, Turkey and Russia will co-operate in the building and operation of the power plant via a build-own-operate (???) model. According to estimates, the first unit of the plant will generate electricity in 2019.

Under the inter-governmental agreement, four reactors will be built, with a combined installed capacity of 4,800 MW. After construction is complete, the plant is predicted to be capable of generating 35 billion kWh of electricity energy per year. With this scale of potential generation, it is possible that electricity may be exported to south Europe and Asian countries. The service life of the Akkuyu plant is 60 years.

The Sinop nuclear power plant project

The Japanese government has indicated its interest in negotiating to build a 4,400 MW nuclear plant and signed an agreement in December 2010 with the Turkish government to prepare a bid for the project. Discussions were temporarily suspended at Japan's request following the Fukushima accident in March 2011. However, in May 2013 the Turkish and Japanese governments signed an agreement regarding the construction and operation of the Sinop nuclear power plant. Currently, a consortium comprised of Japanese and French companies plans to build Sinop nuclear power plant but the contractual structure which will be used for the construction and operation is not yet known.

The construction of the plant is scheduled to begin in 2017 and result in the development of four reactors with an installed capacity of 4,400 MW.

Other nuclear power plant projects

There are currently proposals to build further nuclear plants at other sites, as part of the 100 GW of nuclear generation planned to have been developed by 2030. The Turkish Atomic Energy Authority has identified possible sites for the third plant as ??neada (on the Black Sea, 12 km from the Bulgarian border) and Akçakoca (on the Black Sea, around 200 km from Istanbul). Other sites mentioned as possibilities include Ankara and Tekirda?.

Authorisation and operating requirements

10. What are the authorisation requirements to construct electricity generation plants?

Generation licence

Electricity generation can only be carried out by parties which hold a generation licence. Generation licences are granted by the EMRA and are subject to obligations in the Electricity Market Law numbered 6446 (EML) and Licensing Regulation.

Preliminary generation licence

Under the Licensing Regulation, electricity generation companies are now required to obtain a preliminary generation licence from the EMRA first, while they complete the necessary process to be granted a full generation licence.

A preliminary licence allows holders to obtain further approvals, permissions, licences and similar authorisations which are necessary to begin investments in generation plants, as well as to acquire property and usufruct rights pertaining to the proposed site of the generation plant.

To obtain a full generation licence, preliminary licence holders must:

- Make the necessary arrangements for the ownership right or utilisation rights of the site that will be used to construct the generation facilities. These rights should be obtained from third parties or the treasury by way of acquisition or expropriation, depending on the ownership of the land.
- Apply to TE?A? to execute system connection and system utilisation agreements.
- Obtain a positive environmental impact assessment (EIA) from the Ministry of Environment and Urban Planning, or a decision by the Ministry that an EIA is not required in the circumstances.
- Obtain a construction licence from the Ministry of Environment and Urban Planning.
- Obtain a construction licence from the relevant municipality.
- Obtain a zoning plan from the relevant municipality.
- Obtain a workplace opening and operation licence from the relevant municipality.
- Once facilities are built, obtain final approval from the MENR (and TE?A?, if applicable).

Preliminary licence applicants are asked to provide a letter of guarantee in proportion to the type and size of the plant they seek to develop. The letter of guarantee is kept by the EMRA and cashed if the applicant cannot fulfil the procedural obligations required during the preliminary generation licence process. Furthermore, they should also comply with the minimum capital requirements set forth under the Licensing Regulation. Preliminary licence applicants must submit their articles of association to the EMRA during their application for the pre-licence in order to prove that the company's minimum capital has been raised to 5% of the total investment cost projected by the EMRA for the generation facility. This threshold is 1% for the construction of a nuclear energy based generation facility.

The EMRA will cancel a preliminary generation licence if it no longer believes that the holder can fulfil its obligations. The EMRA may base this decision on a direct or indirect change in shareholding structure and/or a share transfer (or similar act).

11. Are there any requirements to ensure new power stations are ready for carbon capture and storage (CCS) technology, **or requiring a plant to retrofit CC technology once this is ready?**

Turkey became a party to the Kyoto Protocol in 2009 but not to the compliance regime. As a result, Turkey cannot access the Kyoto Protocol's mandatory carbon trading markets. Therefore, Turkey currently has no requirements under the Kyoto Protocol concerning carbon capture and storage technology for power stations and there are no public plans to adopt these requirements.

However, power plant facilities may choose to obtain carbon credit certificates in order to voluntarily participate in the carbon financing market. Voluntary transactions within carbon trading markets have provided additional revenues for a significant number of Turkish renewable energy projects, including wind, geothermal, hydro and landfill gas.

12. What are the authorization and main ongoing requirements to operate electricity generation plants?

Once a party has obtained a generation licence from the EMRA, the following ongoing requirements will apply for operation of the facility:

- Generation licence holders must pay an annual licence fee to the EMRA, calculated for 2013 as 0.003 Kuru? for each generated kWh (EMRA Resolution numbered 4770, dated 19 December 2013).
- Generation licence holders must prepare an annual activity report and submit it to the EMRA in April of each year.
- Generation licence holders must prepare two progress reports each year and submit these to the EMRA in January and July.
- Any direct or indirect transfer of 10% or more of a generation licence holder's shares is subject to prior approval by the EMRA. This threshold is 5% for publicly held companies (Article 57, Licensing Regulation).
- Within the first three months of each fiscal year, generation licence holders must sign an auditing agreement with an independent auditing institution. This obligation does not apply to the fiscal year in which the generation licence is obtained.
- The total market share of a private sector generation company (including its affiliates), cannot exceed 20% of the total national installed electricity generation capacity for the previous year.
- Generation licence holders must register themselves with the EP?A? as a market participant. They must also execute a standard form market participation agreement and a day-ahead market participation agreement (Article 17, Register to Balancing and Settlement Regulation).
- All transmission system users must pay transmission system usage fees. As a transmission system user, generation companies must pay this fee to the TE?A? on an annual basis.

13. What requirements are there concerning interconnection of generation to the transmission grid?

The requirements for generation licence holders relating to the connection to the electricity transmission grid are outlined in:

- The Electricity Market Interconnection and System Utilisation Regulation published in the Official Gazette on 28 January 2014.
- The Electricity Market Grid Regulation published in the Official Gazette on 22 January 2003.

During the preliminary generation licence stage (see Question 10), the EMRA requests an opinion from the state-owned transmission company (TE?A?), or from the relevant distribution company, regarding the potential connection of the generation facility to the transmission system. TE?A?, or the relevant distribution company, evaluates the connection capacity and presents its opinion to the EMRA within 45 days of receiving the EMRA's request (Article 15, Licence Regulation). TE?A?' opinion forms part of the EMRA's decision-making process regarding granting full generation licences to applicants.

Once the EMRA grants a full generation licence to a facility, the licence holder must apply to TE?A? again, this time seeking to execute a system connection agreement and a system utilisation agreement.

The necessary provisions of system connection agreements and system utilisation agreements are outlined in the Electricity Market Interconnection and System Utilisation Regulation. The agreements should be executed in the standard form provided by this Regulation.

Electricity transmission

Authorization and operating requirements

14. What are the authorization requirements to construct electricity transmission networks?

Under the Electricity Market Law numbered 6446 (EML), construction of electricity transmission networks is the exclusive role of TE?A?, the state-owned transmission company.

During the construction of generation facilities, TE?A? executes facility agreements with private generation companies. Under these agreements, the generation companies finance and build the transmission facilities, but ownership of the facilities remains with TE?A?. The construction costs for the transmission facilities are subsequently deducted from the fees which the generation company must pay to TE?A? under the system connection agreement.

Principles regarding the safety and quality of electricity transmission systems are governed by the Electricity Transmission System Supply Safety and Quality Regulation published in the Official Gazette on 10 November 2004. This Regulation defines the system designs, safety instructions and technical criteria which TE?A? and system users must follow in building transmission networks.

Building electricity transmission networks is subject to obtaining certain environmental licences and permits. An EIA report for the electricity transmission facilities must be obtained for the proposed transmission facilities from the Ministry of Environment and Urban Planning. Construction of such facilities will not be permitted unless the EIA report is positive, or the Ministry decides that an EIA is not required in the circumstances.

15. What are the authorization and main ongoing requirements to operate electricity transmission networks?

The right to operate the transmission network in Turkey is exclusively granted to TE?A?, the state-owned transmission company (Article 8, Electricity Market Law numbered 6446 (EML)). TE?A? has been granted a 49-year transmission licence, running from 2003 to 2052.

The following ongoing requirements apply to TE?A? for operation of the Turkish transmission network:

- Operate within the terms of the transmission licence issued by the EMRA.
- Comply with the EMRA's regulations and related legislation, including particularly:
    - the Licensing Regulation;
    - the Electricity Transmission System Supply Safety and Quality Regulation;
    - the Electricity Market Tariffs Regulation.
- Ensure maintenance of a competitive environment.
- Receive applications from holders of preliminary generation licences seeking preliminary approval to connect to the transmission grid, then provide an opinion on each application to the EMRA within 45 days.
- Execute system connection and system utilisation agreements upon the request of generation licence holders. Provided the conditions are met, TE?A? cannot refuse to enter such agreements.
- Compose investment plans for construction of new transmission facilities.

Rates

16. How are the rates and conditions for the transmission of electricity regulated?

According to the Electricity Market Tariffs Regulation, the EMRA determines the applicable tariff rates and conditions for the transmission of electricity on an annual basis, taking into account proposals by TE?A?.

The EMRA's annual tariff decision includes:

- Principles and procedures for implementation of tariffs.
- Transmission system utilisation rate.
- Transmission system operation rate.

- The market operation rate.

The EMRA annually publishes the electricity transmission tariff rates which apply to transmission system users and generation companies by way of a price list outlining the rates for the 14 different tariff regions. These regions are different to the 21 regions allocated to distribution licence holders.

Electricity distribution

Authorization and operating requirements

17. What are the authorization requirements to construct electricity distribution systems?

Distribution activity is defined by the Electricity Market Law numbered 6446 (EML) as the distribution of electricity via transmission grids. Prior to privatisation, networks under 36 kV (defined as distribution systems), were the monopoly of TE?A? and only TE?A? was allowed to construct distribution systems. After privatisation, construction of distribution systems is still defined as one of the primary roles of TE?A?, the state-owned transmission company. However, a distribution licence holder may build new distribution facilities under 36 kV within its relevant licence area, provided it obtains permission from TE?A? and these new facilities are in line with the EMRA's investment plan.

Construction of electricity distribution networks is subject to obtaining the necessary environmental licences and permits. An EIA report must be obtained for the proposed electricity distribution facilities from the Ministry of Environment and Urban Planning. Construction of distribution facilities is not permitted unless the EIA report is positive or the Ministry decides that an EIA is not required in the given circumstances.

To build electricity distribution facilities, a workplace opening and operation licence for the facility, as well as additional permits and licences regarding the zoning plans, must also be obtained from the relevant municipality.

18. What are the authorization and the main ongoing requirements to operate electricity distribution systems?

TEDA?, the state-owned distribution company, owns all distribution facilities in Turkey. Distribution companies in Turkey must obtain a licence from the EMRA for the right to distribute electricity in a specific area, as defined in the licence *(Article 9, Electricity Market Law numbered 6446 (EML)).*

There is no preliminary licence stage for obtaining a distribution licence, as there is for generation licences.

Distribution companies must obtain an operation right for the relevant distribution facilities from TEDA?. Accordingly, in order to obtain a distribution licence from the EMRA, distribution companies must first execute an agreement with TEDA? to assign operation rights to the distribution company (*Article 18, EML*). Assigning the right to operate distribution facilities to a licence holder does not affect TEDA?' ownership of the facilities.

In turn, distribution licence holders are responsible for executing connection and system utilisation agreements with users of the distribution facilities (*Article 7, Regulation on Distribution in Electricity Market*). Licence holders are responsible for maintaining a competitive environment when evaluating connection requests (*Article 33, Licence Regulation*).

Distribution companies cannot hold direct ownership of shares in other entities in the electricity market and cannot themselves have other electricity market entities as shareholders *(Article 33(5), Licence Regulation).*

Rates

19. How are the rates and conditions for the distribution of electricity regulated?

Distribution rates are determined in line with tariffs prepared by distribution companies and submitted to the Energy Market Regulatory Authority (EMRA) for approval (Electricity Market Tariffs Regulation published in the Official Gazette on 11 August 2002).

A national tariff exists with a price equalisation mechanism, ensuring that consumers are protected from exposure to price differences across distribution areas (temporary Article 1, Electricity Market Law numbered 6446 (EML)). All distribution companies are subject to the price equalisation mechanism and the current provision is operative until 31 December 2015.

Electricity supply

Authorization and operating requirements

20. What are the authorization and the main ongoing requirements to supply electricity systems?

All public and private supply companies in Turkey must obtain a licence from the Energy Market Regulatory Authority (EMRA) for the right to supply electricity (Article 10, Electricity Market Law numbered 6446 (EML)). There is no preliminary licence stage to obtain supply licences, as there is for generation licences. Electricity supply licences are generally issued for 49-year periods.

The EMRA Law required entities to obtain separate licences for undertaking wholesale and retail supply activities. However, the current licensing regime abolished the requirement to obtain separate licences and allows supply companies to undertake both wholesale and retail supply activities without seeking any further permission.

State-owned TETA? operates as a wholesale supplier and has around 40% market share in the Turkish market.

The following requirements apply to electricity supply licence holders on an ongoing basis:

- If supply licence holders wish to import or export electric energy or capacity, they must first obtain the EMRA's approval and the other country involved must meet the technical conditions for international interconnection.
- Private legal entities must not purchase an amount of electric energy from either a generation or import company which exceeds 20% of Turkey's national consumption in the previous year. This restriction does not apply to public legal entities.
- Private legal entities must not sell an amount of electric energy to an end-user which exceeds 20% of Turkey's national consumption in the previous year. This restriction does not apply to public legal entities.
- Supply licence holders must pay a fee to the EMRA when obtaining, renewing, modifying and duplicating their licences. The EMRA announces these fees on an annual basis.
- Supply licence holders must pay an annual licence fee, which is announced each year by the EMRA.
- Supply licence holders must provide information regarding their consumers to TE?A? or the relevant distribution company.
- Supply licence holders must take all necessary measures to maintain a competitive environment.

Trading between generators and suppliers

21. How is electricity trading (between generators and suppliers) regulated?

Wholesale electricity trading activities are conducted by state-owned TETA? as well as private supply companies. These trading activities are regulated by provisions in:

- The Electricity Market Law numbered 6446 (EML).
- Licensing Regulation and decisions issued by the EMRA regarding wholesale supply activities.
- The terms and conditions of the parties' respective licences.
- Bilateral agreements, such as those which involve generation, distribution and supply companies.

Rates and conditions of sale

22. How are the rates and conditions of sale regulated at the consumer and wholesale level?

Retail supply

If a consumer spends less than a certain amount per month on electricity, he or she is not eligible to select his or her electricity supplier and instead he or she must use the default supplier allocated in each area. Retail tariffs for these consumers are regulated by the Energy Market Regulatory Authority (EMRA), taking into account submissions from the relevant supply company. The threshold was reduced to 133 TRY per month in January 2014, an amendment which will encourage a more competitive electricity retail market by allowing more consumers to choose between electricity suppliers.

Consumers who spend more than 133 TRY per month on electricity, or have the right to select their electricity supplier due to having a direct connection to the transmission system, can select retail electricity suppliers as they choose. These consumers can execute agreements with electricity suppliers on whatever terms they see fit and these agreements (including the tariffs) are not subject to the EMRA's approval (Article 4, Electricity Market Free Consumers Regulation, published in the Official Gazette on 4 September 2002).

Wholesale supply

Wholesale electricity prices are set by supply companies and not subject to the EMRA's approval, provided they comply with the EMRA's rules and principles.

The EMRA sets tariff rates for TETA?, the state-owned wholesale supply company. In practice, due to TETA?' significant share of the wholesale market, the tariffs which the EMRA sets for TETA? also affect and influence the tariffs adopted by private supply companies.

Tax issues

23. What are the main tax issues arising on electricity generation, distribution and supply?

There are certain tax exemptions and incentives provided to electricity generation, distribution and supply companies in Turkey. Notable incentives include:

- Privatisation activities. Income obtained in relation to transfers, mergers, or spin-offs which is received before 31 December 2023 within the scope of privatising electricity distribution companies and generation plants is exempt from corporate income tax.
- Generation licence holders which are beginning operation for the first time. Generation licence holders which are starting their operation for the first time before 31 December 2015 are entitled to receive the following exemptions and incentives:
- 50% discount in transmission system usage fees for five years, starting from the date the generation plant begins operation;
- acts and documentation executed and issued in relation with generation plants during the investment period are exempted from stamp tax and duty.

Reform

24. What reform proposals are there for the regulation of the electricity sector?

The Electricity Market Law numbered 6446 (EML) came into force in 2013 with the explicit purpose of reforming the Turkish electricity sector, including both structural and operational elements. Accordingly, a considerable number of new initiatives and frameworks were only relatively recently introduced into the market.

Privatisation of state-owned electricity distribution and generation companies continues in Turkey. The Prime Ministry Privatisation Administration has undertaken a programme to restructure and liberalise the Turkish energy sector with a view towards creating a competitive and liberal energy market. The programme involves expanding the private sector's role in the Turkish energy sector, in turn reducing the burden of public institutions on the government budget and improving operational efficiency through increased commercial competition.

Notable recent privatisation announcements include the proposed restructuring of generation company Elektrik Üretim A.?., seeking to privatise 16,700 MW of the company's total 24,400 MW capacity (68%) in 2014. This privatisation will reduce the public share of electricity generation in Turkey to 20%.

In March 2013, the Privatisation Administration announced that the following (formerly state-owned) electricity distribution companies had been successfully transferred to private sector consortiums:

- Bo?aziçi Electricity Distribution Company.
- Akdeniz Electricity Distribution Company.
- Gediz Electricity Distribution Company.
- Aras Electricity Distribution Company

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