

Turkey Tightens Regulations for Firms Supervising and Approving Electricity Generation Facilities

31 May 2017

Turkey's Ministry of Energy and Natural Resources ("**Ministry**") has updated the regulatory regime for firms which supervise and approve electricity generation facilities ("**Authorized Firms**"). The changes generally tighten the regime, by restricting the Ministry's delegation powers, as well as adding new authorization requirements for Authorized Firms, additional responsibilities during operations, and restrictions on activities.

The Regulation Amending the Regulation on Acceptance of Electricity Generation Facilities ("**Amendment Regulation**") was published in Official Gazette number 30038 on 14 April 2017, entering into force on the same date.

The Ministry's Approval of Authorized Firms

Procedures and principles for how the Ministry can delegate its responsibilities have been restructured. Accordingly:

- The Ministry can now only delegate responsibilities for the following tasks where this is necessary to establish and operate electricity generation facilities in compliance with modern technology and national interests:
 - Review
 - Detection
 - Reporting
 - Project approval
 - Project acceptance.
- The Ministry's ability to wholly transfer its duties as to acceptance has been limited. Previously, the Ministry could wholly transfer its duties for acceptance procedures to authorized entities. However, it can now only delegate acceptance procedures to third parties via authorization, commissioning or purchasing services.
- The Amendment Regulation clearly specifies the entities and institutions which the Ministry can authorize as Authorized Firms:
 - Expert public institutions and organizations.
 - Legal entities with electricity distribution license under the Electricity Market Law No. 6446.
 - Private legal entities.

Accrediting an Authorized Firm

Amendments have been made to the approval processes for becoming an Authorized Firm:

- Applicants to the Ministry for approval as an Authorized Firm must now be accredited by the Turkish Accreditation Agency. An exception applies for expert public institutions and Authorized Firms appointed by the Ministry,

- Applicants must now submit an experience certificate, showing the Authorized Firm, its shareholders, or its employees have experience as controller of acceptance procedures in at least one of the following:
 - Electricity generation, transmission, distribution facilities.
 - Petrochemical, refinery, petrol or natural gas transmission lines.
 - Shipping and shipyards.

Terminating an Authorized Firm's Approval

Amendments have been made for terminating an Authorized Firm's approval:

- An authorization protocol is executed between the Ministry and the Authorized Firm ("**Protocol**"). The Ministry can now terminate the Authorized Firm's approval if:
 - The Ministry determines an Authorized Firm has breached its obligations under:
 - The Protocol, or
 - Legislative provisions, and
 - The Authorized Firm receives three notifications concerning different three breaches, within three years.
- An Authorized Firm's authority under the Protocol can now be terminated or suspended if the Turkish Accreditation Agency restricts, suspends, or revokes the Authorized Firm's accreditation.
- An Authorized Firm which has its authorization terminated is now prevented from applying for re-authorization for at least three years (from the termination decision).

Authorized Firm's Responsibilities

Additional responsibilities have been introduced for Authorized Firms, which must now also:

- Hire sufficient personnel with adequate technical knowledge, expertise, technical and occupational training;
- Ensure personnel receive training to keep their occupational knowledge and capabilities up-to-date.
- Obtain professional liability insurance to cover the risks of its activities.
- Ensure management and personnel:
 - Are impartial.
 - Keep information obtained during their activities confidential.
 - Protect information relating to intellectual property rights.

Activity Restrictions for Authorized Firms

Under the amendments, Authorized Firms, their management and personnel, are now restricted from:

- Holding shares in the facilities or the license holders they will provide controlling activities to.
- Partaking directly in production, sales, marketing, or construction of any aspect of equipment, piping, electrical hardware and control systems for generation facilities, nor be representatives of persons engaged in these activities.
- Being involved in any activity which may jeopardize the independency of the Authorized Firm's decisions or duties.

Please see this [link](#) for the full text of the Amendment Regulation (only available in Turkish).

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