

## Recent Developments in the Electricity Sector in Greece and new Investment Law

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### Introduction and general overview of recent developments

The electricity market in Greece is undergoing, or bracing itself to undergo, several structural changes. Gearing itself to meet the challenges of the implementation of the EU Target Model by the end of next year, in the meantime Greece has had to implement several undertakings made towards its lenders, all with a view of creating a more liberalised market in the wholesale, retail and generation sectors in electricity and gas. The partial privatisation of the electricity grid operator, ADMIE, is currently under way, although there are substantial concerns as to whether the current scheme will be concluded by February 2017 as undertaken, failing which, a new scheme of 100% privatisation may be put on the table.

The privatisation of the gas grid operator, DESFA, has still not been concluded. Until recently, this was stalled because of the concerns raised by the EU in the eligibility of a third country operator, the Azeri SOCAR, as a majority shareholder, and the participation of Snam SpA as a minority shareholder was considered to provide a way out. However recently, the decision of the Energy Minister of Greece to reduce the regulatory income of DESFA has again put a spanner in the works.

The privatisation of PPC and the creation of a “small PPC” which had been legislated under the previous Government have been cancelled by the current Government, which has instead agreed with Greece’s lenders to reduce the market share of PPC in the retail and wholesale sector to below 50% by the year 2020. Some of the measures outlined below (NOME auctions) work to this target. In

addition, a restructuring of the tariff system applicable to renewable generation has been recently enacted as set out below.

## New tariff system for renewable generation

A new law was passed in August, changing the tariff system for renewable generation, which aims to continue the support to renewable generation under a system more sensitive to market price signals and market conditions in general. The law comes in implementation of Greece's obligations towards its lenders to restructure its support schemes to renewable generation as well as in compliance with European guidelines in state aid in the energy sector and in view of the forthcoming implementation in Greece of the EU Target Model in electricity markets. The main features of the new scheme have as follows:

### Feed in premium model

The current "feed in tariff" ("FIT") model will be replaced by the "feed in premium" ("FiP") model, a system that provides for a sliding premium to cover the difference between (i) the value allocated to the relevant category of renewable plant in the daily wholesale electricity market ("ETA") and (ii) a Reference Price determined by the law according to type of technology (see table below). The ETA value will be based on the weighted average of the value of the electricity of that type of renewable plant in the daily market, and its method of calculation will be determined in a Ministerial Decision to be issued in the next three months; in any event, during the transitional period until the implementation of the EU Target Model in Greece, the hourly weighted average variable cost of thermal units may also be taken into account. The Reference Price is aimed to cover the cost of investment of the renewable plant plus a reasonable return and is set out in summary in the table below.

Table of Reference Prices Per Category of Renewable Plant:

Category of plant	Reference price (€/MWh)
Wind in land in interconnected (and in non-interconnected) islands	98
Hydro with less 3MWe installed capacity	100
Hydro of 3 -15MWe installed capacity	97
Biomass (4 categories)	140, 162, 184, 193 (depending on category of Biomass)

Category of plant	Reference price (€/MWh)
Solar plants without storage	257
Solar plants with at least 2-hour storage	278
Geothermal energy equal to/less than 5MWe	139
Geothermal energy over 5MWe	108
Biogas from landfill gas, sewerage treatment, biodegradable waste, (various categories)	106, 129, 204, 225 (depending on category of relevant plants)
CHP (11 categories)	Varies between 61 – 92 (plus factor of gas price fluctuations) depending on category of CHP

The renewable plants will sign a PPA applying the relevant FiP model which will have a duration of 20 years (solar will have 25 year PPAs). The Reference Price (price, categories, calculations) may change by Ministerial Decision, but such change will apply to plants connected/commissioned 2 years after such Decision is published.

## Exceptions

Important exceptions are set; the FiP does not apply to the following main categories:

- Most importantly, until the wholesale energy market is developed in the non-interconnected islands, their renewable plants will receive a fixed tariff equal to the Reference Price; however such tariff will be replaced by the FiP system once the power trading market is applied in these island(s) as well.
- Renewable plants on non-interconnected islands, wind farms on uninhabited islands or offshore wind farms where the renewable plant licensee undertakes at own cost to build an interconnector to the mainland, will have a Reference Price calculated on the basis of the above table and increased by up to 25% (level of increase to be decided by the Ministry taking into account the benefit to the island from the saving of public service obligations for that island). Special provisions for hybrid stations in the non-interconnected islands are provided.
- Another important exception are photovoltaic plants with installed capacity equal to/above 500kW, for which the Reference Price will be determined by tender process only (see next paragraph).
- Small photovoltaics (less than 500kW) will have a Reference Price equal to the tariff payable under the previous law for the years 2015 onwards.
- Small renewable plants (i.e. wind farms below a 3MW capacity and other renewable plants below a 500kW capacity) will receive a fixed tariff equal to the Reference Price.

## Reference prices reached through bidding procedures

As from 1 January 2017, the Reference Price in the FiP scheme (or relevant FiT) will be determined for some categories of renewable generation through a public tender. The categories or technologies which will be subject to such tenders will be determined by virtue of a Ministerial Decision following an opinion by the Regulatory Authority of Energy (RAE) to be issued by 30 November 2016. Renewable plants established in countries within the European Economic Area could in theory also be eligible subject to available interconnection capacity.

A pilot tender will take place in 2016 for photovoltaic plants; the tender will have a tendered capacity of at least 40MW and will be shared by pv plants which have an obligation to have a generation licence (i.e. above 1MWp) and plants which do not (the latter up to 20% of the total capacity). The cap price for the tender is 94€/MWh and 104€/MWh for the pv of above/below 1MWp respectively and maximum capacity bid per offer cannot exceed 10MW. The plants need to energise their grid connection within 24/18 months respectively for the two abovementioned categories (above/below 1MWp).

## Other issues

The plants that enter into the FiP model will need to formally participate in the daily pool either directly or through bidding aggregators, will have balancing obligations or, for a transitional period until the implementation of the Target Model, the obligation to exercise best efforts towards accurate production estimates as well as imbalancing charges. An uplift to the Reference Price to reflect the efforts that the plants will need to make to adapt to the new regime (3€/MWh for wind up to 10MW and 2€/MWh for other renewables) is also envisaged for a transitional period under terms to be further defined in a Ministerial Decision.

Plants that have signed a PPA before 1 January 2016 (i.e. under the previous FiT regime) but have not energised their connection, will need to do so within a certain timeframe, otherwise they will become subject to the new regime.

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## Establishment of electricity sales mechanism (“NOME”) via auctions of electricity forwards sold by PPC S.A. to electricity suppliers

In order to implement the legislative undertaking to reduce the market share of the Public Power Corporation (PPC) to below 50% by the year 2020, new legislation introduced a new mechanism along the French model of “NOME” auctions. The aim is the reduction of PPC’s share in the retail energy market by 20% until 2017 and eventually below 50% by 2019; it is anticipated that the Target Model will be implemented from 2018 onwards. Actually, the law links the quantities to be auctioned to the reduction of the market share of PPC in the retail market as follows:

- (a) For the year 2016: reduction of 8% based on the level of August 2015
- (b) For the year 2017: reduction of 12%
- (c) For the year 2018: reduction of 13%
- (d) For the year 2019: reduction of 13%

If the reductions achieved in a semester fall below the target by more than 2%, RAE is to increase the quantities to be auctioned; if the reductions achieved are higher than the target RAE may, but is not obliged to, reduce the quantities to be auctioned.

Under the new auctions PPC will be obliged to sell and physically deliver electricity forwards that will be auctioned irrespectively of the production units that will actually produce the energy.

The market operator, LAGIE, will conduct the auctions according to a Code of Auctions of Electricity Forwards. The Code is to be approved by RAE and is currently under public consultation; an open Presentation of the Code is announced by RAE for 5 September 2016.

The suppliers entitled to take part in the NOME mechanism are the suppliers of electricity who are holders of electricity supply licenses (and actually exercise supply activities) and are registered in the Registry of the daily electricity pool as well as in a new register of Suppliers Eligible to participate in the Electricity Forward Products. It is noted that in the draft Code, the actual exercise of the supply activity is sought to be evidenced by a minimum level of consumption on the part of the customers of the suppliers seeking to participate in the auction.

It is noted that industrial consumers who are already holders of supply licence are not entitled to participate as buyers in such auctions, but such restriction does not apply to industrial consumers who maintain or develop a separate activity of supply of electricity in the retail market. Obviously the above obligation towards evidencing a real supply activity would also apply in this case.

In addition, it is noted that the draft Code seeks to reduce the risk of consumption of the auctioned electricity by large industrial consumers, reducing the type of consumption to an annual consumption of 13GWh. The use of the auctioned power for export is also an open issue.

The determination of the floor bid price for the NOME auctions has been a critical issue, which has delayed the enactment of the law for some time as it directly affects the profitability of PPC. The price is still not fixed and is to be determined by a joint Ministerial Decision; the law provides that the variable costs of lignite and hydro plants of PPC will be used as a basis for the relevant methodology. Media reports set the floor price at 37,35€/MWh. RAE is to decide on the annual quantities, technical characteristics and auction schedules.

The first auctions are expected in September 2016 and should cover quantities equal to 8% of the consumption of 2015 (which is said to be 51,430 GWh).

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## New compensatory mechanism for IPPs under the “Transitional Mechanism for Compensation of Flexibility”

A new support mechanism for IPPs has also been introduced in replacement of the previous Capacity Certificates. Contrary to the previous schemes, which were given to all IPPs, the new scheme is to be provided to those power plants that have a technical flexibility to rapidly increase or decrease the generation of the unit so as to cover the demand requirements, following the orders of the grid operator.

The units have to have the technical ability to move within 3 hours from a “warm” to a “hot” state within a defined capacity circle of operation and to ability to respond for at least 3 consecutive hours.

The holders of a supply licence will pay for the provision of this flexibility service at a fixed rate of 45€/kW of available capacity; the maximum amount to be received by each producing unit may not exceed Euro 15 million. The total cost of the Transitional Mechanism for Compensation of Flexibility has been set to Euro 225 million.

This Flexibility Compensation Mechanism is designated to be a transitional measure until the establishment of a mechanism to ensure the capacity or flexibility of the system. So far the relevant mechanisms had operated as a support measure for IPPs, the need for which should be reduced following the implementation of the Target Model and/or the reduction of the market share of PPC in the generation sector.

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## New investment law in force

The new investment law was enacted on 22 June 2016. Although energy projects will be to a large extent not eligible for subsidies, the law contains important provisions on the payment of subsidies on already approved projects which have been stalled for the last few months due to the financial crisis in the country.

### **New projects**

It provides for State subsidies to be paid on a wide area of investment projects, including tourism, marinas, and logistics, as well as fisheries and agriculture following Ministerial Decisions.

Energy is substantially excluded from its scope, with only small hydro up to 15MW, hybrid up to 5MW on non-interconnected islands, and certain CHP being eligible.

The subsidies are to be provided by means of tax benefits, funds, support of leasing, payroll subsidies and support of investment risk.

For very large projects (with a budget exceeding Euro 20 million and 40 new employment positions to be created), the possibility of income tax stabilisation for 12 years after completion or more advantageous tax benefits is also considered. Licensing simplification under the strategic investment law will also be provided to such projects.

### Projects under existing subsidies schemes

With regard to projects that had been included in previous subsidy schemes and have not obtained the funds yet, the following will apply:

- (i) projects under Law 3299/2004, which had obtained an extension for completion until 31 December 2015 or 31 December 2016, can obtain a further extension, provided that by 31 March 2017 they can prove that they have incurred 50% of their eligible costs; in such case their completion can be extended up to 30 June 2018.
- (ii) projects that were funded under Law 3908/2011 can be completed until 30 June 2017 (in cases where the relevant investment decision was issued up to 31 December 2014) and until 31 December 2017 (for investment decisions issued during 2013 or 2014).

The payment of the subsidies for these ongoing projects will be made in 7 instalments (one with the Decision confirming the 50% completion, one with the application for certification of completion, one with the Decision certifying completion and 4 further annual instalments). In case of projects which had obtained an advance payment, payment is to be made in 5 annual instalments. More details can be made available on request.

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