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### Law 4951/2022 - Modernization of the Licensing Process for RES Projects & Licensing of Energy Storage

The new Law 4951/2022 on the Modernization of the Licensing procedure for Renewable Energy Resources (RES) projects aims to simplify and speed up Phase B' of RES and High Efficiency Cogeneration projects (CHP), and at the same time, lays down the legal framework for energy storage. Finally, the new Law incorporates provisions for the regulation of the energy market with the aim of containing wholesale and retail prices.

On July 4, 2022, the Greek Parliament adopted Law 4951/2022 entitled "Modernization of the licensing process for Renewable Energy Sources - Phase B', Licensing of electricity production and storage, framework for the development of Pilot Marine Floating Photovoltaic Plants and more specific provisions for energy and the protection of the environment" (Government Gazette 129/A/04-07-2022).

Along with Law 4685/2020, the new Law revises the

licensing framework for Renewable Energy Sources ("RES") and High Efficiency Cogeneration ("CHP") projects.

Already, under articles 106-109 of Law 4964/2022, Law 4951/2022 has undergone legislative improvements and the amendment of its article 138 regarding the milestone of monthly announcements by electricity suppliers with reference to any discounts.

## 1. Purpose and Object

Pursuant to Article 16 of Directive (EU) 2018/2001 "on the promotion of the use of energy from renewable sources", EU member states have been obliged to proceed with legislative reforms in order to modernize their frameworks for the licensing RES projects and limit the maximum duration of licensing procedures to two years.

In this context, Law 4685/2020 has introduced provisions for the modernization of phase A' of the licensing of Renewable Energy Sources ("RES") and High Efficiency Cogeneration ("CHP") projects, such as the replacement of electricity production license from the Electricity Producer Certificate from RES and CHP.

The purpose of the new Law 4951/2022 is to simplify and speed up the phase B' of RES and CHP projects' licensing, that commences with the submission of the application before the competent Administrator for the granting of a Final Connection Offer and ends with the issuance of the Operation Permit.

In addition, the new Law sets out the legislative framework for the storage of electricity, while regulating the development of up to ten (10) pilot marine floating photovoltaic plants.

Finally, Law 4951/2022 introduces measures for the regulation of the energy market, especially the natural gas market, with the aim of holding down wholesale and retail prices.

## 2. Stages of Licensing of RES and CHP Stations

With article 4, Law 4951/2022 generally re-affirms and slightly modifies the stages of the licensing procedure for RES and CHP stations as follows:

- ▶ Right to request for prior opinions related to the environmental licensing of RES and CHP plants;
- ▶ Issuance of an Electricity Producer's Certificate by the Regulatory Authority for Energy ("RAE");
- ▶ Issuance of an Environmental Conditions Approval Decision ("AEPO") for category A projects or Standard Environmental Commitments for category B projects or certification of exemption from environmental licensing for projects exempted under Law 4014/2011, which is granted by the competent environmental authority, within an exclusive period of twenty

(20) days from the submission of the request. In the event that the deadline of twenty (20) days from the submission of the relevant request does

- ▶ not materialize, the exemption from the environmental licensing obligation is automatically assumed, upon presentation by the interested party of the protocol number of the relevant request (see also Article 3 § 6 of Law 4951/2022);
- ▶ Issuance of a Final Connection Offer by the competent Administrator;
- ▶ Approval of an intervention in a forest or forest area, according to article 45 of Law 998/1979 (A' 289), if required and such approval is not included in the environmental licensing decision, or otherwise issuance of necessary permits for the acquisition of the right to use the site for the installation of the project;
- ▶ Acceptance of the Final Connection Offer;
- ▶ Issuance of an Installation Permit by the Directorate of Renewable Energy Sources and Alternative Fuels of the Ministry of Environment and Energy for projects which are classified in the environmental classification category A1 or by the relevant Technical Control Directorates of the Decentralized Administrations for projects which are classified, on the date of submission of the application for granting an installation permit, in the A2 and B categories of environmental classification;
- ▶ Execution of a Network Connection Agreement with the competent Administrator, which provides for the obligations of the two (2) parties for the implementation of any connection projects, the electrification and connection to the Network or the System of the user's facilities, as well as any other matter included in the relevant Management Codes of the System or the Network or the NPPs ;
- ▶ Preparation of an Operational Support Contract or issuance of a Certificate of Direct Participation in the Market;
- ▶ Issuance of permits (including building permits or small-scale work approvals as the case may be), deeds, protocols or other approvals required for the installation of the station;
- ▶ Submission of a Declaration of Readiness to the competent Administrator for connecting the station to the Network or the System after completion of the station's installation work;

RES and/or storage plants are classified as public utility projects. In this context, for its establishment, the owner of the electricity generation station, in favor of which an installation permit or a Final Connection Offer is issued, acquires the right to the forced expropriation of properties or to the establishment of real rights upon them in accordance with Law 2882/2001 (A' 17).

### **3. Connection of RES and CHP Stations to the Network or System**

In order to speed up the licensing process, Law 4951/2022 abolishes the stage of the Non-Binding Connection Offer in RES and CHP projects and reforms the connection process with the operator of the distribution network or electricity transmission system.

Thus, Article 5 § 1 of Law 4951/2022 stipulates that, following completion of the environmental licensing, the holder of the Producer's Certificate or the Production license acquires the right to submit an application for the granting of a Final Connection Offer to the competent Administrator.

In order to submit the application for the granting of a Final Connection Offer, the owner of the station is obliged to submit to the competent Administrator, a letter of guarantee, with a validity period of at least two (2) years, with an amount calculated on the basis of the kilowatts ( kW) of nominal power of the request.

After the submission of the application, the legal procedure for granting a Final Connection Offer is defined as follows (Article 5 § 7 and 11-13 of Law 4951/2022):

- ▶ In twenty (20) days from the date of submission of the application, the competent Administrator issues a certificate of completeness of the application or requests additional documents and information, as well as clarifications on the documents already submitted, otherwise the application is presumed to be complete. The applicant's failure to provide the additional information within the set deadline, which cannot be less than twenty (20) days, renders the application inadmissible.
- ▶ In two (2) months from the date of submission of a complete file, the competent Administrator grants the Final Connection Offer to the interested party and communicates it to the Licensing Authority or notifies any inability to connect in accordance with the law.

- ▶ In two (2) months from its issuance, the interested party has the right to either accept the Final Connection Offer, by submitting the relevant solemn declaration of acceptance to the Administrator, with which the Final Connection Offer becomes binding, or to submit a reasoned request for review of its request, proposing an alternative way of connection or re-evaluating the connection of the station, taking into account other technical solutions.

In order to sign a Connection Agreement with the competent Administrator, it is necessary to have previously issued an Environmental Licensing Decision for all the connection projects and the station's Installation Permit. The signing of the Connection Agreement takes place after the submission of a relevant application to the competent Administrator, accompanied by the supporting documents provided for in Article 8 § 5 of Law 4951/2022. With the signing of the Connection Agreement, the entire contractual price relating to the part or all of the projects constructed by the competent Administrator shall be paid, with a maximum limit of two hundred and fifty thousand (250,000) euros (Article 8 of Law 4951/2022).

The offers and agreements for the connection of RES and CHP stations may include special conditions, which allow the imposition of operational restrictions on the injection of electricity and power (Article 10 § 2 of Law 4951/2022). Nevertheless, with the application of the above injection restrictions, a reduction of the maximum production capacity of the RES and CHP plants cannot be higher than five percent (5%) of the annual energy production capacity of the station (Article 10 § 3-4 of Law 4951/2022).

The execution period for the connection projects contractually undertaken by the relevant Administrators cannot exceed the following duration, starting from the signature of the Connection Agreement (Article 8 § 13 of Law 4951/2022):

- ▶ six (6) months for stations connected to the Network, as long as no work is required in High/Medium Voltage Substations, and it exclusively concerns work for network extension or reinforcement up to two hundred meters (200 m.);
- ▶ nine (9) months for stations connected to the Network, as long as no work is required at High/Medium Voltage Substations,

- ▶ eighteen (18) months for stations connected to the Network, if work is required at High/Medium Voltage Substations,
- ▶ twenty-four (24) months for the stations connected to the System, as long as no transmission line projects of more than one (1) kilometer or ultra-high voltage projects are required.
- ▶ thirty-six (36) months for the stations connected to the System, if transmission line projects of more than one (1) kilometer or ultra-high voltage projects are required.

Notwithstanding any other general or special provision, by decision of the Minister of Environment and Energy, a framework is established for the priority granting of Final Connection Offers for RES and CHP stations by the Network Operator and the System Operator, including the areas that have been designated or are characterized as saturated networks (article 89 of Law 4951/2022).

This new framework prioritises certain groups of energy producers, such as stations at a distance of up to 30 kilometers from the border and stations that have been characterized as "strategic investments", while it sets specific conditions for their inclusion (KYA YPEN/GDE/84014/7123, Official Gazette 4333/B/12-08-2022).

#### **4. Issuance of Installation Permits for RES and CHP Stations**

Provided that it has received an Environmental Licensing Decision and a Final Connection Offer and can document in writing the securing of the right to use the installation site as well as the premises of the accompanying projects, the holder of the Electricity Producer Certificate or the Production license can request the issuance of an Installation Permit before the competent authorities, with the supporting documents of article 17 § 3 of Law 4951/2022.

The Installation Permit is issued within twenty (20) days from the submission of the application or from the date of submission of any additional information or clarifications and is published on the "DIAVGEIA" website, as well as on a special website created on the website of the Ministry of Environment and Energy (Article 17 § 5 and 9-10 of Law 4951/2022).

In case of non-compliance with the deadlines herein by the relevant Technical Control Division of the relevant Decentralized Administration, the

interested party may apply for an Installation Permit before the Directorate of Renewable Energy Sources and Alternative Fuels of the Ministry of Environment and Energy (Article 17 § 14 of Law 4951/ 2022).

The Installation Permit is issued once and is valid for three (3) years, with the possibility of an extension of up to twelve (12) months, provided that the holder of the Installation Permit declares in writing to the competent licensing authority its intention to complete the project and provided it has paid up the "Fee Extension of Installation and Commitment of Electric Space", which is defined at one thousand (1,000) euros per megawatt (MW) of Maximum Production Power, for each month of extension (article 19 of Law 4951/2022).

#### **5. Framework and Operation Permit of RES and CHP Stations**

After the completion of the installation work of the station and the connection works, the owner of the station acquires the right to submit an application to the competent Administrator for the activation of the connection of the station to the System or the Network and, within twenty (20) days, the competent Administrator proceeds to electrify the Station, issuing the relevant Electricity Certificate.

In the event that the competent Operator does not connect the station within the foregoing deadline, RAE may decide to impose a fine, taking into account the size of the station and the connection delay, as well as the documentation of the reasons for delay by the competent Administrator (article 26 of Law 4951/2022).

For the operation of a RES and CHP station and/or a storage station, an Operation Permit is required. The owner of the station applies for the operating license before the competent administrative authority, submitting the supporting documents provided for in article 28 § 2 of Law 4951/2022.

In twenty (20) days from the submission of the application, the Authority sends a team for an on-site autopsy of the project and then, in thirty (30) days, issues the relevant Operation Permit. The Operation Permit, which is notified to the applicant and published on the "DIAVGEIA" website and on a special website created within the website of the Ministry of Environment and Energy, has a duration of twenty (20) years from its issuance, with the possibility of renewal for an equal period of time (article 28 of Law 4951/2022).



## 6. Ensuring the Implementation of RES and CHP Stations

To ensure the implementation of licensed RES and CHP projects, Law 4951/2022 provides specific deadlines, after which the granted Producer Certificate or Special Projects Certificate or Production License automatically ceases to be valid. This takes place if the owner of the station does not request the issuance of an Installation Permit within the following deadlines from the acceptance of the Final Connection Offer:

- ▶ In twelve (12) months for photovoltaic, onshore wind and hybrid RES plants.
- ▶ In eighteen (18) months for the other RES and CHP station technologies and/or storage stations.
- ▶ In twenty-four (24) months for RES and CHP stations, which belong to the category of Special Projects, or for hybrid stations that include in their project the construction of a submarine interconnection of two or more NPPs.

The deadlines can be extended for a period of up to twelve (12) months, as long as the holder of the Certificate declares in writing to RAE and the relevant Administrator his intention to complete the project and pays the Physical Installation Space Commitment Fee, which is set at one thousand (1000) euros per megawatt (MW) Maximum Production Power for each month of extension (Article 31 § 1 of Law 4951/2022).

For stations with Final Connection Offers from 01.09.2022, which have been selected in a competitive process, the deadlines defined in the decision of the Minister of Environment and Energy of Article 7 § 3 of Law 4414/2016 apply instead of the deadlines mentioned above (article 31 § 7 of Law 4951/2022).

In addition, the Producer's Certificate or Special Works Certificate or Production License automatically ceases to be valid in the following cases (Article 31 § 2 of Law 4951/2022):

- ▶ If, by the expiry date of the Installation Permit, the owner of the station has not submitted a Declaration of Readiness to the competent Administrator or an application to the competent licensing authority for the granting of an Operation Permit.
- ▶ If the interested party has been granted a Final

Connection Offer by the competent Administrator and it has not been accepted by the interested party, within the set time limit or he has not requested the retention of the letter of guarantee, which is deposited at the competent Administrator.

- ▶ If, after notification of the inability to connect, the interested party either: (a) has not requested the preservation of the relevant application in order to receive a Final Connection Offer or (b) submits a relevant request for the return of the letter of guarantee.

For the termination of the validity of the Production License or the Certificate or the Special Works Certificate, the issuance of a verification act is not required. The termination of the License or Certificate is recorded in the Electronic Register and in the geo-information system of RAE, the competent Administrator is informed and (a) the area, which was declared as the installation location of this station, and (b) the reserved electrical space for the said project are released (Article 31 § 3 of Law 4951/2022).

In case of termination of the validity of the Certificate or Certificate of Special Projects according to the above, all permits issued for the station, in particular Environmental Licensing Decisions, acts provided for in the forestry legislation, Final Connection Offers and Installation Permits, cease to be valid (Article 31 § 4 of Law 4951/2022).

## 7. Licensing and Operation of Electricity Storage Activity

Part C' (articles 59-78) of Law 4951/2022 integrates the provisions of Directive (EU) 2019/944 on the storage of electricity by virtue of amendments in the relevant provisions of Laws 4001/2011 and 4067/2012.

Thus, storage is defined as the postponement of the final use of electric energy to a point of time after its production, by converting it into a form of energy that can be stored, the storage of said energy and the subsequent re-conversion of said energy into electricity, while it is now considered to be a form of electricity activity, is subject to licensing granted by RAE in accordance with articles 132E to 132G and the Storage Permits Regulation of article 135A of Law 4001/2011 (article 2 § 3 m', Id' and according to Law 4001/2011).

More specifically, the activity of electricity storage is permitted to natural or legal persons who have been granted an electricity storage license or who have been legally exempted from this obligation, such as injection power storage stations of less than one megawatt (1 MW) (Article 132E § 2 of Law 4001/2011). The electricity storage permit is granted by RAE for a period of up to twenty-five (25) years and may be extended for an equal period under the terms and conditions provided for herein and in the Storage Permits Regulation.

Especially for pumped storage stations, the storage permit is granted for a period of up to thirty-five (35) years (Article 132E § 3 of Law 4001/2011). R.A.E. maintains an Electronic Energy Storage Register (E.M.A.P.E.) through which electricity storage permits are issued and in which the information, applications, procedures and details are registered, as specified in the Storage Permits Regulation (article 132E § 4 of Law 4001/2011).

Within three (3) months from the posting by RAE of the relevant list, holders of valid electricity production licenses submit the documents of paragraph 1(a) of article 132F for the issuance of corresponding storage licenses based on the new Law, otherwise the relevant licenses are revoked (Article 132H § 2 and 4 of Law 4001/2011).

Respectively, valid holders of Producer Certificates or Special Projects Certificates or Electricity Production Licenses from RES and CHP, who wish to integrate electricity storage or the possibility of storing electricity absorbed or not absorbed by the transmission system or the electricity distribution network, may follow the ordinary amendment procedure or the procedure of article 42 of Law 4951/2022 for the radical renewal of their stations and the installation of an electricity storage unit and the corresponding amendment of the Certificate or Certificate of Special Projects or the Production License.

## 8. Digitization of the Licensing Process

In order to carry out the licensing process, a unified Information System for the Licensing of Renewable Energy Sources Projects ("PSAPE") is put into operation, maintained by the One Stop Service of the Ministry of Environment and Energy. The PSAPE functions as a gateway for all requests from RES and CHP producers and as a common point of

interconnection and interoperability of the individual information systems of the licensing authorities involved. Each RES and STORAGE station and/or storage station receives a unique registry number upon its registration in the PSAPE, which is maintained throughout the electronic processing of its licensing process through the PSAPE. The interested party electronically registers the request and the required supporting documents, which are automatically transmitted to the licensing authorities, monitors its progress and receives electronically the issued decisions or the opinions of the licensing authorities. PSAPE has a notification system and automatically notifies, via e-mail, investors and licensing authorities of the deadlines of each current licensing procedure and the expiry of the relevant licenses or contracts. (articles 3 § 36 and 41 of Law 4951/2022).

In addition, the submission of applications, as well as the required supporting documents for the granting of a Final Connection Offer, the conclusion of a Connection Agreement, the placement of the station in (trial) operation, its connection, as well as any communication of the applicant with the System Administrator or of the Network is carried out via e-mail or an appropriate electronic platform, accessible through the Unified Digital Portal of the Public Administration (gov. gr) with the responsibility of the Administrators for its construction and proper operation (article 39 of Law 4951/2022).

Furthermore, a special website is created at the website of the Ministry of Environment and Energy, in which the Installation and Operation Permits issued by the competent licensing authorities are posted.

Finally, DAPEEP and DEDDIE, in their capacity as Administrators of Non-Interconnected Islands, maintain a Register of RES and CHP stations that are in operation. Furthermore, the System and Network Administrators publish on their respective websites, every two (2) months, on the one hand, the lists with the details of the pending applications for granting a Final Connection Offer and Connection Contract, as well as with the Final Connection Offers and Agreements that they have concluded, and, on the other hand, data for the connection of new RES stations (Article 39 of Law 4951/2022).

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