

ENERGY BRIEFING: Special Edition

Developments in Energy Legislation

This Briefing provides an overview of Article 137 of Law 4819/2021 which imposes some important obligations on early-stage RES producers.

The New Law 4819/2021 published in Government Gazette A' 129/23.7.2021 under the title 'Integrated Framework regarding waste management - Transposition of the Directives 2018/851 and 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste and Directive 94/62/EC on packaging and packaging waste, framework for the Hellenic Recycling Agency, provisions on plastic products, urgent provisions on the protection of the environment, town-planning and energy provisions' was enacted as of 23 July 2021 (the New Law).

1. Article 137 of the New Law, by virtue of which a new Article 11A was added to Law 4685/2020, imposes certain significant obligations on the developers of early-stage RES and CHP projects, as part of the Government's effort to contain the growing congestion of RES licenses and pending applications and, effectively, to limit the number of future producers by testing their financial capacity.
2. Following the enactment of the New Law, in order for the Regulatory Authority for Energy (RAE) to issue a Producer's Certificate or a Special Project Certificate, applicants must submit a Letter of Guarantee equal to 35.000€/MW to RAE (RAE Guarantee).
3. The amount of the RAE Guarantee may be amended from time to time by way of a decision of the Minister of Environment and Energy.
4. In the event of increase of the capacity of a Producer's Certificate or a Special Project Certificate, producers are under an obligation to increase the amount of the RAE Guarantee.
5. The below categories of projects are exempt from the above obligation:
 - a. stations with a maximum production capacity of up to 1MW;
 - b. stations that have either been qualified as strategic investments under Laws 3894/2020 and 4608/2019 or in relation to which a relevant application has been filed with Enterprise Greece before 23 July 2021; and
 - c. stations developed by municipalities, prefectures, foundations, public-benefit institutions (including healthcare facilities and schools but excluding energy communities).
6. The holders of RES or CHP production licenses, Producer's Certificates or Special Project Certificates issued prior to 23 July 2021, as well as licenses or certificates due for issuance up to 28 February 2022, are subject to the obligation to submit the RAE Guarantee by 28 February 2022.
7. An exception is provided for license holders who have submitted a complete application for the issuance of a Binding Grid Connection Offer to the competent grid operator for the relevant project by 28 February 2022 at the latest.

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8. In the event of failure of the above licensees to provide the RAE Guarantee, the RES or CHP production licenses, Producer's Certificates or Special Project Certificates as the case may be, as well as any other permit or approval obtained for the relevant projects, their licenses are automatically revoked.
9. RAE Guarantees are returned to the producer:
 - a. before a Producer's Certificate or a Special Project Certificate is issued by RAE, pursuant to an applicant's request to RAE, in which case RAE dismisses the pending application; or
 - b. once a Producer's Certificate or a Special Project Certificate has been obtained:
 - i. following submission of a complete application for the issuance of a Binding Grid Connection Offer to the competent grid operator (IPTO or HEDNO as applicable), in response to which grid operators shall grant a completeness certificate, confirming the submission of the application; or
 - ii. following a producer's application to RAE, in which case the Producer's Certificate or the Special Project Certificate, as well as any other permit or approval obtained in respect of the relevant project, become automatically invalid.
10. The holders of Producer's Certificates which have already paid the licensing fee in favour of the Renewable Energy Sources Operator & Guarantees of Origin (DAPEEP) in accordance with Article 17 of Law 4685/2020 (RAE Licensing Fee), are given an option to withdraw from the relevant project by submitting an irrevocable statement to RAE by 31 December 2021 and requesting a refund of the RAE's licensing fee.
11. Following submission of such a withdrawal notice:
 - a. the Producer's Certificate or the Special Project Certificate, as well as any other permit issued in respect of the relevant RES or CHP station, become automatically null and void; and
 - b. the RAE Licensing Fee is refunded by DAPEEP by 31 January 2022 to the bank account of the licensee specified in the notice.

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