

G. Verveniotis & Partners
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Newsletter

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- Renewable Energy Projects in Greece - Basic Features

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Renewable Energy Projects in Greece - Basic Features

According to the 4th national report on the penetration levels of renewable energy sources (October 2007), the total energy produced in Greece by renewable energy sources (R.E.S.) amounts to 8,4% of the total electric energy consumed. This rate lies significantly below the objectives set by directive 77/2001/EC.

In view of this fact, but also taking into consideration the country's need to decrease its dependence on imported fossil energy sources, the efforts to promote the use of R.E.S. have been intensified. The legal framework has been undergoing a number of changes, which aim precisely at promoting the generation of electricity through the use of R.E.S. The most significant of these changes are the ratification of law 3468/2006 and the issuance of Ministerial Decisions in execution thereof.

R.E.S. projects in Greece benefit from a preferential regime, which in a nutshell relates to: a. priority as regards absorption by the Grid of the

energy produced by such projects, b. better tariffs and c. state incentives (e.g. grants).

This report concentrates on the provisions of the law and the aforementioned Ministerial Decisions, which refer to the issuance of the permits necessary for the development of R.E.S. projects installed on mainland Greece and the interconnected islands. It then outlines the standard agreement, by which the producer sells the generated electricity to the Hellenic Transmission System Operator (H.T.S.O.). Finally, it presents the incentives of law 3299/2004 for the realization of investments in R.E.S. projects.

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LICENSING REGIME

a. The production permit

The Ministerial Decision regarding the production permits introduces a periodical system for the submission of applications for the issuance of production permits. According to this system interested parties must submit their applications to the Regulatory Authority for Energy (RAE) and the Ministry of Development within a ten day period commencing at the beginning of each second month. RAE is competent to review the completeness of the application, evaluate it and opine to the Ministry of Development with regard to the issuance of the production permit. The criteria according to which

RAE evaluates the application are, among others, the protection of national health and safety, the capability of the applicant to implement the project on the basis of its own financial and technical competence and the environmental protection. Each application must thus be accompanied by the Preliminary Study of Environmental Impact of the project. The aforementioned study constitutes the basis for the Preliminary Environmental Assessment process, which is conducted by the competent environmental authorities. The results are communicated to RAE, which takes them into considera-

tion when forming its opinion to the Minister of Development on the filed application.

The Minister of Development must issue a decision regarding the award of the production permit. R.A.E.'s opinion in this respect is not binding for the Minister.

The production permit is granted for a time period of 25 years and may be renewed for up to an equivalent time period.

b. The installation permit

Construction cannot commence before issuance of the installation permit. After the issuance of the production permit and before applying for an installation permit, the holder of the production permit must obtain the Approval of Environmental Terms for the contemplated projects and its connection to the Grid. For this purpose the permit holder submits to the H.T.S.O an application for the formulation of a connection offer. Once the connection offer is issued, the permit holder applies for the Approval of the Environmental Terms of the project and its connection to the Grid. After having obtained the Approval

of the Environmental Terms, the permit holder may submit the application for the issuance of the installation permit. The installation permit has an initial duration of two years. It may however be extended for a further two year period, if a. by the expiration of the initial two-year term significant works have been carried out, the costs of which cover up to 50% of the investment or b. if the work has not yet commenced operation, due to reasons, for which the holder of the installation permit is not responsible and under the condition that all the necessary agreements for the supply of the equipment

necessary for the implementation of the project have been signed.

After the issuance of the installation permit, the permit holder may apply to the H.T.S.O for the conclusion of the Agreement for the Connection to the Grid (Connection Agreement) and, following that, of the Power Purchase Agreement (P.P.A.), which is set out below (under II). Both agreements are prerequisites for the issuance of the operation permit.



 **LICENSING REGIME**

c. The operation permit

Upon completion of the construction of the plant, the installation permit holder requests from the H.T.S.O the plant's temporary connection to the Grid. The H.T.S.O examines the installations of the plant and tests its operation and then issues a certificate verifying the successful conclusion of the plant's test operation.

The holder may then submit an application for the issuance of the operation permit, accompanied, among others, by verified copies of the Connection Agreement, of the P.P.A. and of the aforementioned certificate.

The operation permit is issued for an initial period of 20 years, which may be extended for up to equal time.

d. Other permits

Depending on the nature of the project and the site where the project is located, other special permits may be required (e.g. hydro-power plants need a permit for the use of water, projects in public forest land need an intervention permit for the use of such land, building permits are required for certain construction works, etc.).

POWER PURCHASE AGREEMENT FOR RENEWABLE ENERGY SOURCES

The power purchase agreement (P.P.A.) is a standard agreement, set out also by a Ministerial Decision and signed between the H.T.S.O. and power producers for R.E.S. projects on mainland Greece and the interconnected islands. If not otherwise agreed, the date of issuance of the operation permit constitutes the opening date of the power purchase. Any energy produced and absorbed during the testing period of the plant (see above under I c) is thus payable after the issuance of the operation permit.

Term

The P.P.A. has an initial duration of 10 years commencing on the date of issuance of the operation permit. It may however be extended for further 10 years by a unilateral written declaration of the producer to the H.T.S.O. at least three months prior to the expiration of the initial term of the P.P.A.

Pricing

The prices for the energy produced by R.E.S. vary according to the energy source used and are set out by law. They are revised annually by virtue of a decision of the Minister of Development following an opinion of RAE, on the basis of a computation method linked to the average change of the various categories of approved tariffs of the Public Power Corporation (P.P.C.).

If, at a later stage, no approval of the P.P.C.'s tariffs is required, the tariffs shall be adjusted by a decision of the Minister of Development at 80% of the consumer price index.

The current prices for energy produced by R.E.S. have as follows:

<i>Generation of electricity from:</i>	<i>Price of energy (Euro/ MWh)</i>
a) Wind energy	75,82
b) Wind energy from sea wind farms	92,82
c) Hydraulic energy exploited in small- scale hydroelectric plants with an installed capacity of up to fifteen (15) MWe	75, 82
d) Solar energy utilized in photovoltaic units with an installed capacity of less than or equal to one hundred (100) KWpeak, and which will be installed in a lawfully owned or possessed property or in adjacent properties of the same owner or lawful possessor	452,82
e) Solar energy utilized in photovoltaic units with an installed capacity of over one hundred (100) kWpeak	402,82
(f) Solar energy utilized in units employing a technology other than that of photovoltaics with an installed capacity of up to five (5) MWe	252,82
(g) Solar energy utilized in units employing a technology other than that of photovoltaics with an installed capacity of up to five (5) MWe	232,82
(h) Geothermal energy, biomass, gases released from sanitary landfills and biological treatment plants and biogases	75,82
(i) Miscellaneous R.E.S.	75,82
(j) High- efficiency cogeneration of heat and electricity	75,82



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➔ **POWER PURCHASE AGREEMENT FOR RENEWABLE ENERGY SOURCES**

Invoicing and payment terms

The H.T.S.O. calculates the charges for the energy produced by the private producer and absorbed by the Grid and notifies the producer accordingly. The producer issues an invoice on the basis of H.T.S.O.'s notification, which is payable within twenty (20) days from its submission to the H.T.S.O.

Assignment of rights

The producer has no right to assign and transfer its rights under the P.P.A without the H.T.S.O.'s prior written consent and pertinent notices to the Ministry of Development and to RAE.

However, and in order to assist the financing of the project, the P.P.A. provides that the producer may assign and transfer its monetary claims under the P.P.A., even without the H.T.S.O.'s prior written consent, to a) one or more first class Greek or foreign banks registered and operating within the European Union as well as to leasing companies that are going to finance the development of the plant, and to b) any affiliate company of the producer having as purpose the development and operation of a power plant.

Termination of the P.P.A.

The P.P.A. terminates automatically in case the production or the operation permit expire, are revoked or annulled by courts.

Further, either party is entitled to terminate the agreement if the other party fails to perform or performs only partially its obligations deriving there from. However a party may only proceed to such termination of the contract after having granted to the other party a fifteen (15) days notice to comply with its obligations. In case of termination, each party is obliged to remedy any damage incurred to the other party.

Dispute resolution procedure

Both parties agree to an amicable dispute resolution procedure. For this purpose a three member committee is formed, consisting of a representative of the H.T.S.O., a representative of the producer and a representative of RAE.

Disputes on technical issues, even if they have financial consequences or relate to the allocation of liability between the parties, are to be referred to RAE, which conducts a technical expert's audit. The technical results of such audits are

binding for the parties. However, a party that disagrees with the aforementioned audit's financial part or its allocation of liability may submit the resolution of the dispute to arbitration conducted by RAE or to the ordinary courts of Athens. A party has the same option in case of failure of the three member committee to reach an amicable settlement

INVESTMENT INCENTIVES

Law 3299/2004, as amended, provides significant incentives for the realization of R.E.S. projects. The extensive recourse to the options of the law by private investors indicates that it is considered as a reliable instrument for the financing of this type of projects.

Types of aid

The types of aid provided for under law 3299/2004 are the following:

a) Cash grant, by which the State undertakes to cover part of the eligible expenditure of the investment plan.

b) Leasing subsidy, by which the State undertakes to pay part of the installments of the leasing contract for the acquisition of new mechanical and other equipment

c) Tax allowance up to a certain percentage or the entire value of the aided investment expenditure, or the leasing value of new mechanical and other equipment. Such aid consists in the exemption from payment of income tax on the undistributed profits of the project for the first ten years after its realization. The exempted amounts are used for the built up of a tax free reserve.

d) Subsidy of employee costs, by which the State undertakes to contribute for two (2) years in the wage cost of the employment positions created within the first three (3) years from the completion of the investment.

An investor may choose among the following combinations of aid types:

- a)** cash grant and/or leasing subsidy, or
- b)** tax allowance, or
- c)** subsidy of employee costs.

Eligible expenditure

The law contains a list of expenditure, which is eligible for coverage. Such expenditure may be the construction or extension of building installations, the purchase and installation of mechanical equipment, the cost of connection to the Grid etc. Designs, consulting costs and other intangible assets are covered, but may not exceed 10% of the cost of the eligible investment.

For the purposes of the law the Greek territory is divided into three sections. The percentage of the aid provided depends on both the area, where the investment is to be realized and on the type of aid to be granted. Renewable energy projects are accordingly aided as follows:

<i>Area</i>	<i>Percentage (cash grant, leasing subsidy, subsidy of employee costs)</i>	<i>Percentage (tax allowance)</i>
Prefectures of Attica and Thessalonica with the exception of their respective industrial zones and their islands	20%	60%
Regions of Thessaly, of Southern Aegean Sea, of the Ionian islands, of Crete, of Central Macedonia, of Western Macedonia, of Sterea Ellada (Central Greece) and the industrial zones and the islands of the prefectures of Attica and Thessalonica	30%	100%
Regions of Eastern Macedonia and Thrace, of Epirus, of Northern Aegean Sea, of Peloponnesus and of Western Greece	40%	100%



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➔ INVESTMENT INCENTIVES

The law further provides for an aid of up to 10% for medium size enterprises, whereas small and very small enterprises, as such are defined in E.U. legislation, may be awarded an additional aid of up to 20%.

Conditions for and restrictions on eligibility

Investment plans for renewable energy projects are eligible only if the pertinent installation permits have been issued.

The law provides that the construction or extension of building installations may not be aided, if such works are to take place on property not owned by the investor. Exceptionally for R.E.S. projects however, it is sufficient that the investor has acquired by virtue of a lease agreement the right to use the property, where the plant is to be situated, for at least twenty years.

It should further be noted that investors are expected to contribute own funds for the realization of the investment. The investor's such own participation cannot be lower than 25% of the eligible expenditure, while this percentage cannot be reduced after the issuance of the decision that grants the support (thereon approval decision) and for 5 years after the publication of the decision for the commencement of the investment's commercial operation. The own participation constitutes company capital and as regards existing companies it is realized through share capital increases by new cash contribu-

tions by the shareholders/partners or from already taxed reserves. Certain conditions have to be met, when the investment plan involves financing through loans. Such loans must namely:

- i)** have a duration of at least four years
- ii)** be bank or bond loans or loans granted by any other financial institution
- iii)** be granted only for the realization of the investment plan, and
- iv)** have been approved by the bank or the financial institution at the time of the submission of the application for the grant.

Criteria for eligibility

The criteria for determination of an investment plan's eligibility to be aided are mainly the following:

- a)** criteria related to the identity of the investor such as its experience, its financial standing and capability etc
- b)** criteria related to the financial and technical aspects of the investment plan and the feasibility of the investment, such as the completeness of the business planning, the potential development of the sector, the contemplated profitability etc
- c)** criteria related to the investment plan's contribution to the targets of the law such as the creation of new jobs, the environmental protection and the

saving of energy, the competitiveness of the products or services in an international perspective, the quality of the products or services, the social and economic development of the country etc

The payment of the grant

The payment of the grant is affected as follows:

- a)** 50% is paid after certification by the Ministry of Economy and Finance that half of the investment is completed
- b)** the remaining 50% is paid after the publication of the commencement of the investment's commercial operation.

The law further grants to the investor the option to receive as prepayment up to 50% of the approved grant against a bank guarantee issued by a bank established and lawfully operating in Greece equal to the amount of the prepayment increased by 10%.

The certification of completion of the investment and of commencement of its commercial operation takes place within six (6) months after the expiration of the deadline determined by the approval decision for the completion of the investment. An extension of the deadline for the completion of the investment is possible for 2 years at most, under the following conditions: a) the pertinent application



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INVESTMENT INCENTIVES

must be submitted within 6 months from the expiration of the initial deadline for the completion of the investment and b) 50% of the approved project must have been completed.

Assignment of the grant

The grant is payable directly to the investor and may not be assigned to any third person. Exceptionally the grant may be assigned to banks for the provision of a short term loan equal to the amount of the assigned grant.

Obligations of the investor

Investors, who have obtained a grant under law 3299/2004, have the following obligations until the expiration of a five year period from the publication of the decision for the completion of the investment and the commencement of its operation:

- a)** they must comply with the provisions of the decision awarding the grant
- b)** they must obtain ownership of the leased equipment after the expiration of the leasing contract
- c)** they may not interrupt the production activity of the investment or cease the operation of the investment, unless there is a force majeure event resulting from natural events
- d)** they may not transfer any of the fixed assets, which have been

subsidized, unless these are replaced by other assets of equal value and this is announced to the competent authority within 3 months from such replacement.

Further the investor must notify any change in the shareholding structure and may not lease the investment in whole or in part without the prior approval of the competent authority.

In the event of infringement of the investor's obligations, the approval decision is revoked and the grant must be returned.

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