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Model letter of guarantee for issuing RES production certificates

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On 9 September 2021, the Greek energy regulator (RAE) issued decision 696/2021, which prescribes the specific terms regarding the submission, duration, renewal, forfeiture and return of the letter of guarantee that interested parties should submit to the RAE. Indeed, henceforth, the letter of guarantee is a prerequisite for the admissibility of applications to the RAE for the issuing of renewable energy source (RES) power producer certificates or special RES certificates, pursuant to the newly introduced provisions of Law 4819/2021, which amends Law 4685/2020 (the RES licensing law).

According to these new provisions, the required letter of guarantee amounts to €35,000 per megawatt of maximum production capacity.

The letter of guarantee is issued irrevocably and without reservation as a guarantee for the timely submission of either a complete application for final grid connection terms (with regard to the non-saturated grid) or a fully substantiated expression of interest for grid connectivity (with regard to the saturated grid) to the competent system operator.

A certificate of completeness issued by the respective system operator and submitted to the RAE will be considered proof of this prerequisite condition. The letter of guarantee issuer waives any right to division and the objection of prior enforcement against the applicant, as well as any other right otherwise available to a guarantor under the following articles of the Civil Code:

- 851-853;
- 855;
- 862-864; and
- 866-869.

The validity period of the letter of guarantee must be commensurate to the relevant deadlines for the foregoing procedures, as set out by law, ⁽¹⁾ plus an additional 30 days within which the RAE examines whether any potential reasons for the letter of guarantee's forfeiture exist, or the RAE returns it. Where special ecological assessments for the effect on areas of special ecologic interest are required, the duration of the letter of guarantee is extended correspondingly.

Similar adjustments are envisaged for changes in the licensed production capacity. In the event of transfer of the project, the letter of guarantee is returned without affecting the production certificate's validity. However, if the project operator requests for the letter of guarantee to be returned before the lapse of the aforementioned deadlines, this invalidates the respective certificate (or causes the respective application to the RAE to be rejected).

The letter of guarantee may be issued not only by credit and financing institutions, but also by insurance companies, whether operating in Greece, the European Union or the European Economic Area. However, in all cases, Greek law is applicable and the Athens courts are competent for disputes arising from issuing letters of guarantee.

For further information on this topic please contact [Maria Ioannou](mailto:m.ioannou@rokas.com) at Rokas Law Firm by telephone (+30 210 361 6816) or email (m.ioannou@rokas.com). The Rokas Law Firm website can be accessed at www.rokas.com.

Endnotes

(1) The deadline for the aforementioned submission to the competent system operator is 36 months for solar photovoltaic, onshore wind and hybrid stations, whereas for special RES projects, it is 72 months.