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New law clarifies legal framework for electricity storage

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- **Introduction**
- **Autonomous electricity storage units**
- **RES units with internal storage that cannot store electricity from electricity system**
- **RES units with internal storage that can store electricity from electricity system**
- **Other amendments**

Introduction

The provisions on electricity storage set forth in the new law on renewable energy source (RES) licensing procedures⁽¹⁾ aim to provide, for the first time, a clear legal framework for the licensing of energy storage activities, while also transposing the pertinent provisions of EU Directive 2019/944.

More specifically, it is explicitly regulated for the first time that Law 4001/2011 (as amended) will regulate the licensing procedure of electricity storage units that are connected to the grid, while Law 4685/2020 will regulate the licensing of RES units with internal storage. This category has been further subdivided into RES units with internal storage that can store electricity from the electricity system, and RES units with internal storage that cannot (the latter category refers to units that do not absorb electricity from the system unless for their own ancillary use and that may not exceed, during operation, the maximum production capacity stated on their respective certificate).

This article sets out the main points of interest for each category.

Autonomous electricity storage units

For autonomous electricity storage units, a Regulatory Authority for Energy (RAE) licence is required. This is issued according to the provisions of Law 4001/2011 and the delegated Regulation for Storage Licences (which is expected in the future in the form of a decision issued by the Minister of Energy). The law envisages that licences may last for up to 25 years, subject to extension, and sets out provisions on their amendment, revocation and transfer. The application fees cost €60 per megawatt of maximum injected capacity, with an overall cap of €12,000. Fees must also be paid in order to amend a licence.

Moreover, the new law opts for the creation of an electronic register for the processing of the applications, which are to be submitted within the first 10 days of each month.

Licences will be issued exclusively for units that are connected to the interconnected system or network and that comply with certain criteria – for example, a substantiated estimate of the internal rate of return of the project and the technical and financial suitability of the applicant.

Regarding the spatial planning of the storage unit to be licensed, any land overlap is to be resolved through an understanding between the affected parties or else through a comparative assessment made by the RAE based on criteria such as the legitimacy provided by the land titles of each party. This is particularly important because, according to the new law, the restriction against using farmland of high productivity for purposes other than farming and the development of RES units does not apply for storage units.

It is also worth mentioning that, in line with the provisions of EU Directive 2019/944, transmission and distribution operators are only permitted to own and operate electricity storage units under exceptional circumstances (eg, if this is deemed necessary for the safe functioning of the grid and as long as such infrastructure is not used for the sale or purchase of electricity in the electricity markets).

Since many storage projects have already been licensed in Greece according to the regulatory framework previously in place, the transitional provisions of the new law are of particular interest. As a rule, for licences that have been issued by virtue of Ministerial Decision No. Δ5/Φ1/οικ.17951/8 December 2000,⁽²⁾ as well for pending applications, the new legal provisions on licensing apply (with certain deviations regarding the starting point of certain deadlines). The respective project operators must meet certain deadlines to resubmit documentation regarding the amendment of their licences or the issuance of those for which applications are pending, under penalty of revocation of their licence or rejection of the application, as the case may be.

RES units with internal storage that cannot store electricity from electricity system

The licensing of these units will be carried out according to Law 4685/2020 (as amended), with the issuance by the RAE of an RES producer certificate. Such units may receive operational aid or participate in the electricity markets.

RES units with internal storage that can store electricity from electricity system

These units are issued a special RES project certificate by the RAE. This technology is not allowed operational aid and may only participate in the electricity markets. The RAE may regulate the operation of this technology through more detailed terms to be stated in the respective certificates and pursuant to the Regulation on RES Producer Certificates and Certificates of Special RES Projects. This regulation is anticipated to undergo a significant amendment to explicitly include such projects as well. Further, special conditions may apply to the participation of such units in the electricity markets, as per issued regulations.

With regard to production licences for RES units with storage that were issued at the time of the enactment of the new legal provisions pursuant to the previous regime of Ministerial Decision No. Δ5/Φ1/οικ.17951/8 December 2000 and prior to the enactment of Law 4819/2021 on 23 July 2021, the new legal provisions apply with certain deviations.

Owners of RES units with internal storage that can store electricity from the electricity system must submit an application within certain deadlines, either to be issued a special RES project certificate, or for the elimination of the RES units from their projects.

On the other hand, holders of either an RES producer certificate or a special RES project certificate may apply for their amendment, the former to being classified as an RES unit with internal storage that can or cannot store electricity from the electricity system, and the latter to being an RES unit with internal storage that can store electricity from the electricity system. Such applications may be submitted to the RAE at any time (even outside the designated submission rounds).

Other amendments

The new provisions also regulate issues such as:

- the priority of connection to the electricity system. Applications for a grid or network connection offer that relate to storage units which are regulated through Law 4001/2011 and which do not restrict the capacity of the grids and networks to receive RES-sourced electricity are to be evaluated by operators separately from the priority list for RES and combined heat and power units; and
- the imposition of administrative fees and regulated charges on storage units depending on the specific type of storage.

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Endnotes

(1) Law 4951/2022, OJ A' 129/4 July 2022 as supplemented with Law 4964/2022, OJ A'.

(2) OJ B' 1498.