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TOPIC: **The Letters of Guarantee under the light of the Law 5151/2024**

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Introduction

The new law no. 5151/2024¹ (the “Law”) on the regulations to modernize waste management, improve the energy saving framework, develop energy projects and address urban planning issues, adopted recently by the Greek Parliament, enacts, inter alia, a modified legislative framework concerning the letters of guarantee required for the development of RES projects, with a main emphasis given on the letters of guarantee set out for the connection of the interested plant to the grid.

¹ Official Journal A'173/04.11.2024.

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The relevant provisions

➤ *Return of the letters of guarantee*

The Law puts into effect an innovative possibility for RES and HE CHP plants, by enabling them to request the return of certain letters of guarantee under certain circumstances. More analytically, said plants, as long as they have been granted a binding connection offer and, by the end of October 2024, have not been selected within the framework of a competitive procedure, or have not applied for the conclusion of an operational aid agreement, they are entitled to ask for the cessation of validity of the producer's certificate along with the return of the following letters of guarantee: i) the letter of guarantee which is submitted to the Independent Power Transmission Operator along with the application for the granting of the binding connection offer², ii) the priority letter of guarantee deposited with the acceptance of the binding connection offer³ and iii) the bilateral agreement letter of guarantee, deposited within 2 months from the issuance of the priority framework ministerial decision and solely by plants which have been classified as belonging to the category B'.

The above provision is considered significant, because until the enactment of the Law, the relevant applicable framework allowed for the return of said letters of guarantee under very strict and limited conditions, including but not limited to the annulment of the producer's certificate following a judicial judgment, the non-acceptance of the binding connection offer and the cancellation by the applicant of its request for the granting of the binding connection offer.

With respect to the above under iii) letter of guarantee, the Law provides also for the case where the interested party has proceeded to the deposition thereof, but without having still been granted the binding connection offer. In such a case, the specific plant is able, from the end of October 2024 and for a period of 3 months after the issuance of the binding connection offer, to require the return of the aforesaid letter of guarantee, as well as either the cessation of validity of the producer's certificate, or the classification by the competent operator of the application for the binding connection offer into a lower category.

➤ *Reduction of the letters of guarantee*

There are two relevant cases set out by the Law, depending on the time of submission of the letter of guarantee which accompanies the application for the granting of the binding connection offer. In particular, the RES and hybrid plants which have already submitted the subject letter of guarantee are enabled, upon the 31st of October 2024, to request the replacement thereof and to deposit a letter of guarantee reduced by either a 30% of the initial amount thereof with respect to plants with capacity equal or above 1 MW, or a 15% of the initial amount for plants with capacity less than 1 MW. The same reduction amounts apply also to plants applying for the granting of the binding connection offer upon the 31st of October 2024 and thereafter, while in parallel, it is set out that the hybrid plants in

² Except for the plants allowed to deposit after that submission, due to the application thereto of the relevant transitional provisions.

³ For plants falling under category B', the said letter of guarantee is deposited within 6 months from the issuance of the binding connection offer.

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the non-interconnected islands shall be obliged to deposit the above letter of guarantee with the acceptance of the binding connection offer.

- *Abolition of exception regarding the producer's certificate letter of guarantee*

Upon the entry into force of the Law, the exception of plants with maximum production capacity of up to 0.5 MW from the obligation of submitting the producer's certificate letter of guarantee, is no longer enforceable. Thus, said plants are obliged to the deposition thereof with the application for the issuance of the producer's certificate. According to the Regulatory Authority for Waste, Energy and Water, both the holders of such producers' certificates and the ones with pending producers' certificates applications are required to submit the above letter of guarantee within 3 months.

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