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ENERGY, UTILITIES & INFRASTRUCTURE PRACTICE

Legal Framework for the development of Offshore Wind Parks in Greece

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ENERGY, UTILITIES & INFRASTRUCTURE PRACTICE

# Framework for the development of Offshore Wind Parks in Greece

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Law 4964/2022 titled *“Provisions for the simplification of the environmental licensing, introduction of a framework for the development of Offshore Wind Parks, confrontation of the energy crisis, protection of the environment and other provisions”*<sup>1</sup> (**“OWP Law”**) introduces a comprehensive OWP related regulatory framework, which provides the roadmap for the development of the OWPs National Development Program, including the introduction of centrally designated OWPs Organized Development Areas (**“ODAOWPs”**), OWPs Installation Sites, as well as introduces a special licensing and operating aid regime through the participation in a single Tendering procedure for the concession of the installation site and the award of the reference tariff.

Furthermore, the OWP Law introduces specific provisions for the firstly introduced OWP Research Licenses, by virtue of which the developers of OWPs will be granted with the right to conduct research and technical studies for the design, development, installation and operation of OWPs as well as the OWP Special Fee which will be due for the energy generated by the Projects.

It shall be noted that the new OWP Law provides for the development of **“Pilot OWP Projects”** which will be implemented by Project Companies that have already been provided with a License (Production License or Special Project’s Producer’s Certificate) or have already submitted a pending application for the issuance of same prior to the introduction of the new legal framework.

## a) Development of Offshore Wind Parks (**“OWPs”**)

Law 4964/2022 (the **“OWP Law”**), which set the legal framework for the development of OWPs provides for the following licensing streamlines:

### I. Setting up of the OWPs Development Program

- i. EDEYEP shall ensure the preparation of a technical study and based on this, a draft OWP National Development Program, which will set the site planning, the sea areas and the design for the installation of OWPs as well as the capacity targets for OWPs;
- ii. EDEYEP shall then submit the draft OWP National Development Program to the Spatial Planning Directorate of the Ministry of Environment and Energy (MEE) and ensures the preparation of a Strategic Environmental Impact Assessment (SEIA) study for the OWP National Development Program. The SEIA study shall be submitted by EDEYEP to MEE within one (1) month from the submission of the draft OWP National Development Program;
- iii. Following a proposal by the Spatial Planning Directorate, the OWP National Development Program, including the SEIA study is approved by virtue of a Joint Ministerial Decision of the

<sup>1</sup> Government Gazette A’ 150/30.07.2022.

Ministers of Foreign Affairs, Finance, National Defence, Development, Agricultural Development, Environment & Energy, Shipping and Island Policy, Tourism and Culture and Sports.

## **II. Determination of OWPs Organised Development Areas (“ODAOWPs”) and Designation of OWP Installation Sites**

- a) In view of the determination of ODAOWPs, EDEYEP prepares technical studies, defining the conditions for the development of OWPs in each ODAOWP, taking into consideration the OWP National Development Program and estimating the minimum and the maximum capacity of OWP Projects that can be installed therein. The technical study of each ODAOWP shall be submitted by EDEYEP to the Directorate of Spatial Planning of the Ministry of Environment and Energy;
- b) Each technical study is submitted to a Strategic Environmental Impact Assessment (SEIA) study by EDEYEP. The SEIA study is then submitted by EDEYEP to the Environmental Licensing Directorate of the Ministry of Environment and Energy (MEE);
- c) Following the review and the completion of the consultation phase, the Environmental Licensing Directorate forwards its proposal on the SEIA study to the Spatial Planning Directorate, which shall then submit a proposal to the MEE;
- d) Upon the proposal of the MEE and the opinion of the Central Council of Urban Planning Issues (KE.SY.PO.THA as per its initials in Greek) a Presidential Decree is issued: a) delimiting the ODAOWP zones, b) defining the conditions for the development of OWPs until 2030 and c) estimating the maximum capacity of OWP Projects that can be installed therein;
- e) The ODAOWPs for the development of OWP Projects starting from 2030 are defined by virtue of an amendment of the aforesaid Presidential Decree.

## **III. Submission of applications - Issuance of OWP Research Licenses in ODAOWPs**

- a) Following the determination of ODAOPWs and OWP Installation Sites, the developers of OWP Projects shall submit an application to EDEYEP for the issuance of an OWP Research License. Holders of said license are granted with the right to conduct research and elaborate technical studies required for the design, development, installation and operation of OWPs in each ODAOWP;
- b) The OWP Research License has a validity period of three (3) years;
- c) By virtue of EDEYEP’s decision, issued within two (2) months from the publication of the aforementioned Presidential Decree designating the ODAOWPs, the deadline is set with regards to the application cycles (i.e. certification rounds) for the issuance of OWP Research Licenses; Each application cycle has a duration of two (2) months.
- d) Each interested party may submit an application for the issuance of a Research License in more than one (1) ODAOWPs;
- e) The application shall be accompanied by: i) an OWP Research License LoG of 10,000€/MW and ii) proof of payment of the one-off OWP Research License Fee, amounting to ten thousand euros (10,000€);
- f) The OWP Law sets the requirements for the submission of an application for the issuance of the Research License, which will be further determined by virtue of a decision of EDEYEP. It shall be noted that the criteria may be differentiated for each OWP Technology (fixed-bottom or floating). The minimum requirements are the following:

Professional and the technical requirements:

- ❖ Proven or borrowed experience during the last ten (10) years in the development of OWP Projects; at least one (1) OWP Project with a capacity of 100 MW and
- ❖ Proven or borrowed experience of operation and maintenance of OPW Projects with an installed capacity of more than 25 MW.

Financial and economic requirements:

- ❖ Annual turnover of more than two billion euros (2,000,000,000) for at least one (1) year within the last three financial years;
- ❖ The ratio of equity funds to loans shall be greater than 20%.

#### **IV. OWP Tenders**

- i. EDEYEP initiates a public consultation phase for the OWP Installation Sites within each ODAOWP within two (2) years from the lapse of the first application cycle for the issuance of OWP Research Licenses;
- ii. Within two (2) months following the completion of the public consultation phase, the MEE issues a Ministerial Decision, a) designating the OWP Installation Sites within the ODAOWPs, for which OWP Research Licenses have been issued and b) estimating the maximum capacity of the OWP Projects that can be installed therein;
- iii. Within four (4) months as of the issuance of the aforesaid Ministerial Decision, RAE procures a Tender for the granting of Operating Aid to OWP Projects that will be installed within the OWP Installation Sites ("**OWP Tender**");
- iv. Holders of OWP Research Licenses are eligible to participate in each tendering process for a specific ODAOWP. Each participant submits distinct bids for each OWP Installation Site within the ODAOWP, for which the OWP Research License has been issued;
- v. For the award of the Operating Aid, the selection criterion is the lowest bidding price in €/MWh for the compensation of the energy generated by the OWP Project developed within the specific OWP Installation Site;
- vi. The preferred bidder selected through the Tender for a specific OWP Installation Site has the exclusive right to proceed to the licensing process, development and exploitation of the OWP Project within the OWP Installation Site;
- vii. Following the successful participation in the RES Tender, OWP Projects secure a reference tariff and enter into an Operating Aid Agreement (in the form of CfD). The validity period of the Operating Aid Agreement is set to twenty (20) years.

#### **V. Licensing process for OWPs**

- Following the successful participation in the RES Tender, the OWP project is required to submit before RAE an application for the issuance of a Special Project Producer's Certificate;
- OWPs (with the exception of Pilot OWP Projects) are not required to submit a LoG for the issuance of a Special Project Producer's Certificate;
- Within a deadline of three (3) months starting from the submission of the application, RAE issues a Decision granting a Special Project Producer's Certificate, which will be valid for a period of thirty (30) years and can be renewed for an equal period;
- The Special Project Producer's Certificate is issued for a OWP Project with a capacity within the estimated maximum limits set by the aforementioned Presidential Decree, which defined the ODAOWPs;



- Holders of a Special Projects Producer's Certificate are required to obtain all necessary permits and approvals within the deadlines of the Producer's Certificates Regulation, Law 4685/2020 and the applicable regulatory framework governing the licensing process of conventional RES Projects;
- The OWP Law provides for the following OWP specific provisions:
  - A) Compared to the applicable framework for conventional RES Projects, the Grid LoG is submitted with the acceptance of the Final CTO, within two (2) months as of the issuance thereof;
  - B) IPTO shall be solely responsible for the design, development, construction and operation of the interconnection works from the Grid to the ODAOWP connection point. Each OWP producer shall bear the cost of construction of the Grid Connection Works, as specified in the Final Connection Offer issued by IPTO;
  - C) Special Projects Producer's Certificates cease ipso jure to be valid if the OWP producer fails to submit an application for the issuance of an Installation License, within twenty four (24) months, starting from the acceptance of the final CTO.  
The aforementioned deadline can be extended for an additional period of up to twelve (12) months, subject to the payment of an extension fee of € 1,000 per MW/month. In case the above deadlines are not complied with, the Special Project Producer's Certificate is revoked ipso jure and the aforesaid extension fee is forfeited.

The Special Projects' Installation License has an initial validity period of **four (4) years**. The Installation License's validity period can be further extended for up to one (1) additional year under two conditions: a) the holder of the Installation License declares before the competent licensing authority that it intends to complete all required works and b) the holder of the Installation License pays an extension fee (said "extension of installation fee") of € 1,000 per MW/month. In case the above deadlines are not complied with, the Installation License will be revoked ipso jure and the aforesaid fee will be forfeited.

## **VI. Special OWP Fee**

A Special OWP Fee shall be imposed to OWPs corresponding to a fee amounting to two percent (2%) on the revenues from the sale of electricity (before VAT). The Special OWP Fee shall be no less than 2€/MWh generated.

Said Fee is payable starting from the trial operation until the end of the commercial operation of the OWP Project. The Special OWP Fee shall be automatically deducted from the revenues received by the OWP Producer and automatically deposited to the specific OWP account of the Operator of RES and Guarantees of Origin (DAPEEP).

### **b) Pilot OWP Projects**

The sea area located south of the coastline of the Regional Unit of Evros and north – northeast of the island of Samothraki will be defined as a Development Area of Pilot OWP Projects ("**DAPOWPs**") of a total capacity up to 600 MW<sup>2</sup>.

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<sup>2</sup> According to Article 174 of the OWP Law.

The following permitting milestones will apply to Pilot OWP Projects:

- ❖ Upon submission of a proposal by the MEE and the opinion of the Central Council of Urban Planning Issues (KE.SY.PO.THA as per its initials in Greek) a Presidential Decree will be issued by virtue of which:
- ❖ The sea area mentioned above, included in the OWP National Development Program, will be designated as an ODAOWP zone and the specific conditions for the development of OWP Projects will be defined by virtue of a Strategic EIA study, as well as the OWP Installation Sites will be delimited within the ODAOWP zone;
- ❖ The maximum capacity of OWP Projects that can be installed in each OWP Installation Site is also defined, which shall be of at least 200 MW.
- ❖ Holders of existing Production Licenses/Special Projects Producer's Certificates or applicants who have submitted pending applications for the issuance of Production Licenses/Special Projects Producer's Certificates, under condition that part of the polygon of the OWP Project, specified in the existing License or pending application falls within the abovementioned DAPOWP, shall submit an application before RAE within a deadline of two (2) months starting from the issuance of the aforementioned Presidential Decree in order to:
  - a) Amend the pending application or the Production License/Special Project Producer's Certificate;
  - b) Relocate the installation site of the OWP Project within the closely located OWP Installation Site, as defined by the aforesaid Presidential Decree, if required;
  - c) Amend the maximum capacity of the OWP Project or the installed capacity, up to the maximum capacity of OWP Projects defined by the Presidential Decree, if required;
  - d) Amend the number and the type of the WTGs (Wind Turbine Generators) of the Project, if required;
  - e) Submit a Special Project Producer's Certificate Letter of Guarantee (LoG) of article 11A of Law 4685/2020, equal to 100,000€/MW, calculated on the basis of the capacity defined in the amended Production License or newly issued Special Project Producer's Certificate.

If the aforesaid requirements are not met, the relevant Production Licenses/Special Projects Producer's Certificates shall be revoked by RAE.

- ❖ Within a deadline of three (3) months starting from the submission of the application, RAE issues a Decision granting a Special Project Producer's Certificate, which will be valid for a period of up to thirty (30) years and can be renewed for an equal period;
- ❖ Holders of the Special Project Producer's Certificate are therefore granted with the exclusive right to proceed to the licensing process, development and exploitation of OWP Projects **without prior participation in the OWP Tender**;
- ❖ Holders of Special Projects Producer's Certificates will be required to obtain all necessary permits and approvals within the deadlines of the Producer's Certificates Regulation, Law 4685/2020 and the applicable regulatory framework governing the licensing process of RES Projects;
- ❖ With regards to the reference tariff secured by Pilot OWP Projects, holders of Special Projects Producer's Certificates may submit an application before DG Comp. of the European Commission in order to secure a reference tariff without prior participation in the OWP Tender (mentioned in item IV. of section a). Following the approval of the DG Comp., they enter into an Operating Aid Agreement (CfD), under the form of a State Aid. The validity period of the Operating Aid Agreement will be set to twenty (20) years;

- ❖ Upon approval of the DG Comp. for the execution of an Operating Aid Agreement without prior participation in the Tender scheme, a Ministerial Decision is issued by the Minister of Environment and Energy, defining the timeline for the licensing process and the entry into operation of the Pilot OWP Projects;
- ❖ Pilot OWP Projects which are granted with an Operating Aid Agreement by virtue of an approval by DG Comp. are required to obtain all licenses required and set the Pilot OWP Project into commercial operation no later than six (6) years starting from the date of issuance of the approval of the DG Comp.;
- ❖ If the application submitted before DG Comp. for the purposes of securing a reference tariff without prior participation in the OWP Tender is not approved, Pilot OWP Projects will be required to participate in a OWP Tender. The Pilot OWP Projects that successfully participate in the Tender secure a reference tariff and are granted with a final CTO by the Operator (IPTO);
- ❖ All pending applications and existing Productions Licenses/Special Projects Producer's Certificates that have been submitted/issued for OWP Projects, the polygons of which do not fall within the DAPOWPs are ipso jure revoked upon entry into force of the OPW Law.

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