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Solving the Puzzle of "*Absolute Grid Priority*" RES Projects – The New Support System for Industrial and Agricultural Activities

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# Solving the Puzzle of "Absolute Grid Priority" RES Projects – The New Support System for Industrial and Agricultural Activities

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A legislative amendment designed to grant “absolute grid connection priority” to Renewable Energy Source (RES) projects supplying electricity to farmers and energy-intensive industries entered into force on 16 March 2024, after a short consultation period (the "**Amendment**"). Projects classified under the categories specified in the Amendment will receive grid connection terms from the Independent Power Transmission Operator (IPTO) before any other group of RES power plants.

The Amendment primarily aims to lower the energy costs for farmers and promote the competitiveness of heavy industrial consumers by providing affordable, sustainable energy, while, at the same time, expediting the commissioning of RES projects securing their revenue streams through power purchase agreements (PPAs).

In the following sections we attempt to concisely organize and clarify the provisions of the Amendment.

## Projects with Agricultural PPAs

The first group of RES projects which is granted with absolute priority for the issuance of grid

connection terms by IPTO is the group of RES projects executing PPAs with suppliers that procure generated electricity to farmers ("**Agricultural PPAs**").

Projects falling into this category are granted with absolute priority by IPTO with regards to the assessment of their grid connection applications and issuance of grid connection terms, as long as the pertinent project owners satisfy the following requirements:

1. They applied to IPTO for the issuance of grid connection terms prior to 16 March 2024, and
2. Within three (3) months from the issuance date of the Ministerial Decision mentioned [below](#), they submit to IPTO the following documentation:
  - (a) A signed PPA (virtual or physical) with a supplier who undertakes the obligation to procure the generated electricity to farmers;
  - (b) A solemn declaration from said supplier specifying the quantities of electricity to be procured;

(c) A solemn declaration from the supplier specifying the installations procured and their annual consumption throughout the previous calendar year; and

(d) A certificate from the Hellenic Electricity Distribution Network Operator (HEDNO) confirming the annual consumption of the previously mentioned installations during the previous calendar year.

The grid connection terms to be issued for projects with Agricultural PPAs:

1. Will provide a reduction to the final installed capacity of the pertinent project, as is the case with projects that are classified under Group B of the *Grid Connection Priority Framework*<sup>1</sup> and
2. Will not implement any type of capacity curtailments as per Article 10 of Law 4951/2022.

### **Ministerial Decision – Projects with Agricultural PPAs**

Within twenty (20) days as of the Amendment's entry into force, the MEE shall issue a decision specifying the capacity limits for grid connection term offers granted to projects with Agricultural PPAs. Said Ministerial Decision will also specify the selection criteria that IPTO will apply for allocating the available capacity to eligible

projects. While not explicitly mentioned in the Amendment, we anticipate that the available capacity will be allocated to eligible projects on a first-come, first-served basis, prioritizing projects based on the date when the relevant grid connection applications reach "complete status"<sup>2</sup>.

Furthermore, the Ministerial Decision is expected to provide:

- Guidelines for the geographical distribution of eligible projects.
- Priority guidelines regarding the assessment of pending grid connection applications.
- Specific production ratios in kWh/kW/year for each RES technology, to assist in calculating the capacity for projects receiving grid connection terms.

### **Projects with Industrial PPAs**

The second group of RES projects granted with absolute grid priority are RES projects with PPAs executed with electricity suppliers who procure electricity to energy-intensive industrial consumers of Annex I of the Temporary Crisis and Transition Framework (TCTF)<sup>3</sup> ("**Industrial PPAs**"). The procurement of the generated electricity shall be performed through a PPA

<sup>1</sup> Ministerial Decision ΥΠΕΝ/ΓΔΕ/84014/7123 issued on 12 August 2022, as amended and in force. Group B of said Ministerial Decision refers to RES projects with PPAs executed with end customers domiciled in Greece or licensed suppliers who procure electricity to the aforesaid category of end customer.

<sup>2</sup> i.e. the relevant application dossiers will contain all documentation required by the applicable legislation.

<sup>3</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02023XC0317\(01\)-20231121](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02023XC0317(01)-20231121)

signed between the supplier and the industrial customer ("**Supplier PPA**").<sup>4</sup>

### Eligible Projects

The Amendment provisions the following three (3) categories of eligible projects:

1. Projects with complete grid connection applications submitted to IPTO prior to 16 March 2024, that meet the requirements set for Group B of the Grid Connection Priority Framework.
2. Projects that *"fall within the maximum capacity limit of grid connection offers"* of Group B of the Grid Connection Priority Framework. Based on the wording of the Amendment, these projects are not obliged to have submitted complete grid connection applications to IPTO prior to 16 March 2024.
3. Projects admitted in any of the subgroups of Group A of the Grid Connection Priority Framework that have not received grid connection terms from IPTO until 16 March 2024, and fall within the maximum capacity limit set by the Grid Connection Priority Framework for the relevant subgroup. According to the Amendment, *"the provisions [...] that regulate RES projects of priority Group B"* as per the Grid Connection Priority Framework, shall apply *mutatis mutandis* for this category of projects. *Prima facie*, it appears that the provisions of Group B' which will also apply to this category of projects

relate to the admission requirements set by the Grid Connection Priority Framework for said Group, such as the obligation to submit a *"PPA Letter of Guarantee"*, the obligation to submit a signed PPA or at least a PPA term sheet, and the minimum content of the PPA.

### Admission Requirements

According to the Amendment, the owner of the above categories of RES projects must comply with the following requirements to receive the benefit of absolute priority:

1. The project owner:
  - (a) has already signed for a PPA (physical or virtual) with a licensed supplier for the pertinent project, **or alternatively,**
  - (b) will submit to IPTO (i) a solemn declaration undertaking the obligation to execute one or more PPAs (physical or virtual) with a supplier, (ii) a term sheet with the main terms of the PPA, and (iii) a solemn declaration issued by the supplier confirming that it will sign a supply contract with a non-household final customer in relation to the energy produced by the associated RES project.

In case the project owner proceeds with option (a), the signed PPA must (i) identify the details of the end customer, the installed capacity of the project and the agreed energy consumption of the industrial customer or

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<sup>4</sup> The election of a PPA mechanism instead of a supply agreement structure should probably be attributed to the

consumer protection framework which is applicable to the supply of electricity to end customers.

the agreed energy that the supplier will purchase under the PPA, (ii) have a minimum term of eight (8) years, (iii) cover the sale of at least 80% of the energy generated by the RES project and (iv) include terms ensuring the allocation of the aforesaid generated electricity to end customers. In case of termination of the PPA executed between the project owner and the supplier or of the Supplier PPA, a new PPA / Supplier PPA must be signed respectively within two (2) months.

2. The licensed supplier with whom the project owner has contracted or will contract, has already executed a Supplier PPA with an eligible energy-intensive industrial consumer. The Supplier PPA must make explicit reference to the RES projects that generate the electricity procured to the end customer or provide identification details of the PPA signed with the project owner.<sup>5</sup>

Further to the above, and without prejudice to the provisions of the Ministerial Decision mentioned *below*, the owners of said category of projects must also comply with the terms of the Grid Connection Priority Framework regarding the obligation to:

1. submit two good-performance letters of guarantee (Priority LoG and PPA LoG), and
2. submit a PPA executed with a licensed supplier to IPTO within six (6) months as of

the issuance of the grid connection terms (if option under no 1(b) above is applicable).

In case the project owner does not comply with the above obligations, the grid connection terms granted by IPTO will be rescinded.

### **Ministerial Decision – Projects with Industrial PPAs**

Within sixty (60) days as of the Amendment's enactment, the MEE will issue a decision which will establish the priority guidelines regarding the evaluation of grid connection term applications for projects with Industrial PPAs by IPTO.

For this purpose, the Amendment classifies Supplier PPAs into two distinct categories:

1. Supplier PPAs the “performance”<sup>6</sup> of which started prior to 16 March 2024, and their terms make explicit reference either to the RES projects from which the electricity procured to end customers originates or to the details of the PPA signed between the project owner and the supplier.

The grid connection applications for projects of this category will be reviewed in chronological order, taking into account the execution date of the pertinent PPAs.

2. Supplier PPAs:
  - a) the “performance” of which started prior to 16 March 2024 and their terms make no

<sup>5</sup> The Amendment sets a timeline of 35 days for the modification of Supplier PPAs which do not fulfil these requirements.

<sup>6</sup> The term “performance” reflects the language of the Amendment. A PPA's performance commences when the pertinent RES project reaches commercial operation.

explicit reference to the associated RES projects;

b) executed but “performing” on 16 March 2024; and

c) not executed prior to 16 March 2024.

Supplier PPAs falling under the category (2) above, must also clearly specify the electrification date of the associated RES projects, indicating the commencement of the Supplier PPA’s “performance.”

Applications for category (2) will be queued in chronological order based on the date of submission of the relevant Supplier PPAs to the Directorate of Renewable Energy Sources and Alternative Fuels of the Ministry of Environment and Energy (see [below](#)).

Projects of category no (1) will receive grid connection terms in relative priority compared to projects of category (2). However, if following the issuance of grid connection terms for category (1), the cumulative capacity of the RES projects classified under category (2) surpasses twice the capacity which is still available for category (1) projects, as per the capacity limits established in the Ministerial Decision [above](#), said remaining capacity will be allocated to projects of category (2) in chronological order, taking into account the date of the Supplier PPA’s entry into force (i.e. the commercial operation date of the pertinent projects). In other words, RES projects commissioned earlier, will be prioritized.

The same Ministerial Decision will set the capacity limit for the issuance of grid connection terms for Industrial PPAs. It may also outline:

- Specific production ratios in kWh/kW/year for each RES technology, to assist in calculating the capacity for projects receiving final connection term offers; and
- The minimum term of Supplier PPAs.

### Capacity Curtailments

Projects with Industrial PPAs will not be subject to capacity curtailments implemented to safeguard the local grid or imposed in real-time to address emergencies. However, this exception shall not apply if:

1. The Supplier PPA has a shorter term than the minimum required under the Ministerial Decision mentioned [above](#).
2. The procurement of electricity to industrial consumers under the Supplier PPA ceases in a shorter time than the Supplier PPA’s minimum term, as per the Ministerial Decision [above](#).
3. The relevant RES projects do not reach commercial operation by 31.12.2026.

Other types of capacity curtailments are expected to apply in accordance with the framework to be introduced by the Ministerial Decision [above](#), even though their intensity may be decreased compared to the provisions of article 10 of Law 4951/2022.

## Admission Process

The table below provides an overview of process to be followed by project owners who execute Industrial PPAs so as to be granted with absolute grid priority:

<b>Documentation submitted to the authorities</b>
<ul style="list-style-type: none"> <li>▪ Supplier PPA.</li> <li>▪ A solemn declaration by the energy-intensive industrial consumer regarding its electricity consumption over the last three (3) calendar years.</li> <li>▪ A solemn declaration of the project owner confirming the originality of the submitted data and documentation.<sup>7</sup></li> </ul>
<b>Competent Authorities</b>
<ul style="list-style-type: none"> <li>▪ The Directorate for Renewable Energy Sources and Alternative Fuels of the Ministry of Environment and Energy (MEE).</li> <li>▪ IPTO</li> </ul>
<b>Submission Deadline</b>
<p>Thirty-five (35) days as of the Amendment's entry into force.</p>

## Conclusions

The structure of the Amendment bears notable similarities to the provisions of Group B of the Grid Connection Priority Framework. A significant similarity is that the reduction of the projects'

installed capacity with the issuance of grid connection terms shall continue to apply for Industrial PPAs. Beyond the impact that this reduction has on the electricity generation infrastructure of the pertinent projects, it also determines the amount of the good-performance LoGs that project owners are required to submit to IPTO.

Apart from the similarities, the Amendment also introduces significant distinctions from the conditions for inclusion in Group B of the Grid Connection Priority Framework, particularly in the following areas:

- A fundamental difference in the treatment of Industrial PPAs, as opposed to the provisions for Group B, is the requirement for the generated electricity to be supplied to the end consumer explicitly through a licensed electricity supplier. This requirement contrasts with the Grid Connection Priority Framework which provided project owners with the flexibility to elect between entering into a PPA with a supplier or directly with the end customer.
- The legislator opts to classify the contract effectuating the procurement of electricity to industrial customers as a PPA (Supplier PPA) rather than a supply agreement. This distinction likely stems from the consumer protection framework regulating supply activities.

<sup>7</sup> Although it is not explicitly stated in the Amendment, it should be assumed that the project owner must also submit to IPTO the two (2) good-performance letters of guarantee

(Priority LoG and PPA LoG) as well as a PPA executed with a licensed supplier within six (6) months as of the issuance of the grid connection terms.

- In contrast with the Grid Connection Priority Framework, the Amendment does not mandate that the end consumer shall be domiciled within Greek territory. This interpretation may broaden the opportunities for producers and suppliers looking for alternative solutions.
- Another key deviation from the Grid Connection Priority Framework is the absence of restrictions on the commercial or industrial activities of the end consumer in the previous framework.

Overall, the Amendment's provisions feature a complex framework which necessitates meticulous examination. Beyond its complex architecture, the Amendment introduces a significant shift in the Grid Connection Priority Framework by establishing two new project categories that now assume precedence in the hierarchy of priority groups. This change significantly disrupts the existing market rules, challenging the foundational strategies of numerous investors and necessitating a strategic reevaluation and adaptation of their investment approaches.



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