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## Grid Connection Priorities Unveiled – The Rules of “Absolute Priority” for RES Projects with Industrial PPAs

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# Grid Connection Priorities Unveiled – The Rules of “Absolute Priority” for RES Projects with Industrial PPAs

BY GUS J. PAPAMICHALOPOULOS, ANTONIS N. KOUMPIAS, IAKOVOS KOULOURIS, MELINA KOLOVETSIU

A legislative amendment that grants "absolute grid connection priority" to Renewable Energy Source (RES) projects supplying electricity to farmers and energy-intensive industries took effect on 16 March 2024 by virtue of Law 5095/2024 (the "**Law**")<sup>1</sup>. The Law introduced two categories of RES projects that enjoy "absolute priority" concerning the granting of a final connection terms offer (the "**CTO**") by the Operator of the Hellenic Electricity Transmission System (IPTO); namely stations that will procure electricity through bilateral power purchase agreements to farmers (Agricultural PPAs) and energy-intensive industries (Industrial PPAs).

The present newsletter refers to the newly published (on 27 August) Ministerial Decision No. ΥΠΕΝ/ΔΑΠΕΕΚ/88889/2592 (Government Gazette B' 4918), issued upon legislative authorization pursuant to the Law, regulating the implementation of the Law's provisions regarding

the granting of CTOs to RES projects with Industrial PPAs.

## Legislative Authorization of the Law

According to the Law, the possibility of inclusion in the category of projects with *Industrial PPAs*, i.e. 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>2</sup> through a PPA signed between the supplier and the industrial customer ("**Supplier PPA**"), and consequently securing absolute priority in the granting of CTOs, is provided for the following categories of RES projects:

1. Projects for which a "complete status" application for a CTO has been submitted to IPTO by 14 March 2024, and that meet the inclusion criteria in Group B of the *Priority Framework*<sup>3</sup>.

<sup>1</sup> See our prior newsletter for more detail: <https://kglawfirm.gr/wp-content/uploads/2024/03/Priority-Issues.pdf>

<sup>2</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)

<sup>3</sup> The term "Priority Framework" refers to Ministerial Decision ΥΠΕΝ/ΓΔΕ/84014/7123, as amended and in force, which established the priority framework for the connection of RES projects to the grid.

2. Projects that *"fall within the maximum capacity limit of final connection terms offers"* of Group B of the Priority Framework, without the requirement of having submitted a complete CTO request by March 14, 2024.
3. Projects *"that have been included in a subgroup of Group A"* of the Priority Framework and cumulatively a) *"fall within the maximum capacity limit of final connection offers of this Subgroup"* and have not received a CTO by March 14, 2024, and b) *"proportionally meet the provisions"* of the Priority Framework *"governing RES projects of Priority Group B"*.

According to the Law, a **Ministerial Decision** shall specify the total installed capacity of projects with Industrial PPAs that will receive CTOs with absolute priority, the mandatory minimum term of the Industrial PPAs, the imposition of injection curtailments to projects with Industrial PPAs that do not meet the mandatory content set by the Law and the order of priority in which requests for CTOs submitted to IPTO by project owners for inclusion in this group of absolute priority will be ranked.

### Ministerial Decision – Key Provisions

The Ministry of Environment and Energy issued on 27 August 2024 Ministerial Decision No ΥΠΕΝ/ΔΑΠΕΕΚ/88889/2592 (hereinafter the **"Ministerial Decision"**) addressing the scope of

the Law's authorization and resolving upon the relevant matters as detailed hereunder.

**I. Capacity Limit for Eligible Projects:** The Ministerial Decision sets the maximum capacity limit for the granting of CTOs to projects with Industrial PPAs at 2,950 MW of total installed capacity. It is noted that thirty-seven (37) project owners submitted complete applications to IPTO for a total capacity of 3,796 MW. As a result, the total capacity of projects that were "eliminated" amounts to 846 MW. These eliminated projects may be able to receive a CTO under the Priority Framework, provided that they meet the pertinent requirements and there is available capacity to be allocated under the eligible priority group.

**II. Mandatory Contractual Term:** The Ministerial Decision sets eight (8) years as the mandatory minimum contractual term of the Industrial PPAs that eligible projects need to secure to benefit from absolute grid connection priority. This is the same minimum contractual term provided for the PPAs secured by investors the projects of which will be eligible under Group B of the Priority Framework.<sup>4</sup>

**III. Imposition of Injection Curtailments:** The Law provides that projects granted with absolute grid connection priority through the execution of (conforming) Industrial PPAs are exempted from the imposition of injection curtailments imposed by IPTO on an *ad hoc* basis upon prior assessment

<sup>4</sup> Group B' refers to projects securing a PPA with a non-household customers domiciled in Greece or with supplies who procure electricity to said category of customers.

of the saturation of the local grid or in emergency situations.

This exemption may be rescinded in accordance with the Ministerial Decision, through the gradual imposition of injection curtailments as a penalty to projects that are granted with absolute priority through the execution of Industrial PPAs but either a) do not reach commercial operation by 31 December 2026 or b) the Industrial PPA(s) do not comply with the obligations relating to the minimum mandatory 8-year term of the Industrial PPAs or c) said PPAs are terminated prior to the lapse of the minimum 8-year period or in case the pertinent projects.

In these instances, the curtailment of the maximum injection capacity of a project, measured at their connection point with the grid, as a percentage of its installed capacity, will be subject to gradual increases so that the aforementioned maximum injection capacity as a percentage of the installed capacity of the station is further reduced by:

- a) 1.0% for each month that the term of the Industrial PPA falls short of the mandatory 8-year term,
- b) 1.0% for each month of delay in concluding a new Industrial PPA in the event that the initial contract is terminated prior to the lapse of the mandatory 8-year term,
- c) 1.0% for each month of delay in energizing the project past the 31 December 2024 and, for

projects with “non-conforming” Supplier PPAs specifically, 1.0% for each month of delay in energizing the project past the energization date stated in the pertinent application for the award of absolute priority subject to an extension of up to 6 months, but in any case no later than 31 December 2026.<sup>5</sup>

To demonstrate compliance, project owners must submit the relevant documentation to IPTO on the project's energization date and annually thereafter; this documentation should verify that they continue to meet the conditions necessary to remain exempt from the imposition of injection curtailments.

**IV. Ranking Order of CTO Applications:** The Ministerial Decision ranks in order of priority the applications for the issuance of CTOs of projects with Industrial PPAs for consideration by IPTO. The ranking order is determined by the date of execution of the pertinent contracts.

**V. Additional Provisions:** Introduces special additional provisions, particularly the option for RES station owners who received CTOs before 27 August 2024 (the publication date of the Ministerial Decision), who met the conditions for inclusion in the group of projects with Industrial PPAs, to choose whether they will retain the CTO they have already received or receive a new CTO pursuant to the Ministerial Decision.

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<sup>5</sup> Namely Supplier PPAs which were signed and entered into force by 14 March 2024 but did not explicitly mention the associated RES projects, or did not include the mandatory content provided by the Law, as well as Supplier PPAs that had been signed but had not yet

"entered into force," and those that were neither signed nor had entered into force by 14 March 2024.

## Conclusions

The content of the Ministerial Decision further confirms that the “rules of the game,” established as recently as August 2022 with the inception of the Priority Framework, have undergone significant changes. The Priority Framework is now ranked lower in the hierarchy, as two new project categories have been elevated to the top.

Regardless of the policy merits behind promoting projects with Industrial PPAs—whether from an industrial or energy policy standpoint—the process deviates from legislative best practices, as the regulatory framework governing grid connection is becoming increasingly fragmented, due to the introduction of numerous exceptions to the Priority Framework either by law or by other secondary legislation (e.g. the tendering framework of battery storage projects). The introduction of new project categories that take precedence over those in the original Priority Framework, whether through legislative amendments or secondary legislation, risks undermining transparency and eroding confidence in the process.

Despite the above, the success of the Law and Ministerial Decision will ultimately be decided by the commercial viability of the relevant investments. On this front, industry players highlight a risk associated with securing PPAs that involve PVs due to the large shaping cost. More specifically, since March, solar electricity procured through PPAs has been about €20/MWh cheaper than the market price. From July, prices for electricity from hydroelectric and natural gas sources have sharply increased during

evening peak hours (7 PM to 11 PM) when solar energy isn’t available, rising to €350-450/MWh, driving the market price further up. This has increased the price gap to €50/MWh and, as a result, the financial risk for industries in relying too heavily on solar energy through Industrial PPAs, as this would create a larger exposure to the (increased) shaping cost. Industry experts suggest that energy-intensive industries may find it more prudent to limit their solar energy purchases to just 20-30% of their total energy requirements in order to mitigate the financial risks associated with the high shaping costs of PPAs for PV systems.

## Contact Us

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**Gus J. Papamichalopoulos**

**SENIOR PARTNER**

[g.papamichalopoulos@kglawfirm.gr](mailto:g.papamichalopoulos@kglawfirm.gr)

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*Follow Us*

### **ATHENS OFFICE**

28, Dimitriou Soutsou Str.,  
115 21 Athens

T +30 210 817 1500

F +30 210 685 6657-8

E [kg.law@kglawfirm.gr](mailto:kg.law@kglawfirm.gr)

### **THESSALONIKI OFFICE**

31, Politechniou Str.,  
551 34 Thessaloniki

T +30 2310 441 552

E [kg.law@kglawfirm.gr](mailto:kg.law@kglawfirm.gr)

[\*www.kglawfirm.gr\*](http://www.kglawfirm.gr)

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