Draft Law on Utilization of Renewable Energy Sources for the Purpose of Generating Electrical Energy

PART ONE
Purpose, Scope, Definitions and Abbreviations

Purpose

Article 1– The purpose of this Law is to expand the utilization of renewable energy sources for generating electrical energy, to benefit from these resources in secure, economic and qualified manner, to increase the diversification of energy resources, to reduce greenhouse gas emissions, to assess waste products, to protect the environment and to develop the related manufacturing industries for realizing these objectives.

Scope

Article 2– This Law encompasses the procedures and principles for conservation of the renewable energy resource areas, for certification of the energy generated from these sources and for utilization of these sources.

Definitions and Abbreviations

Article 3– As used in this Law:

1. **"The Ministry"** means the Ministry of Energy and Natural Resources
2. "**EMRA"** means the Energy Market Regulatory Authority
3. "**DSİ"** means the General Directorate of State Water Works
4. "**EIE"** means the General Directorate of Electrical Power Resources Survey and Development Administration
5. "**TEİAŞ**" means the Turkish Electricity Transmission Company
6. "**MTA"** means the General Directorate of Mineral Exploration and Research
7. "**TETAŞ**" means the Turkish Electricity Trading and Contracting Company
8. "**Renewable Energy Sources"** means such non-fossil energy sources as hydraulic, wind, solar, geothermal, bio-mass, biogas, wave and tidal energy
9. "**Biomass**" means the solid, liquid or gaseous fuels obtained from organic wastes and from the agricultural and forestry products including the waste products of agricultural harvesting and oil extraction from plants as well as from the by products formed after their processing
10. "**Geothermal Resource**" means the natural water, steam and gases comprising melted substances and gases with temperature permanently higher than the regional atmospheric average due to the natural heat in the earth crust, and water, vapor and gases obtained from hot dry rocks.
11. "**Renewable Energy Sources included in this Law**" means wind, solar, geothermal and biomass energy sources and electrical energy generation resources

suitable for establishing run of river type hydraulic generation plants with a reservoir area of less than 15 square kilometers.

12. "**The Average Wholesale Price of Electricity in Turkey"** means the average of the wholesale prices of electricity, calculated by EMRA and applied annually in the country.

PART TWO
Identification, Conservation and Utilization of Renewable Energy Resource Areas and Certification of the Electrical Energy Generated from Renewable Energy Sources

Identification, conservation and utilization of the resource areas

Article 4– Following the entry into force of this Law, for the purpose of benefiting from the national economic potential of the renewable energy sources identified in the public lands or in lands owned by the Treasury, no city planning which affect the utilization and efficiency of these lands shall be considered. The procedures and principles for identification and utilization of geothermal resource areas for electrical energy generation shall be laid down in the regulation to be issued by taking into consideration the provisions of the other related legislation.

Prior to granting a generation license for utilization of renewable energy sources, EMRA shall consult with DSİ, EİE, MTA, TEIAŞ, the related regional distribution company and with the Ministry of Environment and Forestry on the basis of their expertise and fields of specializations.

Renewable Energy Source (YEK) Certificate

Article 5– The producer shall be granted by EMRA with a "YEK Certificate" for the purpose of identification and monitoring of the resource type in purchasing and selling of the electrical energy generated from renewable energy sources in the domestic and international markets.

The procedures and principles for the YEK Certificate shall be specified in the regulation to be issued.

Projection for Utilization of the Renewable Energy Sources

Article 6– The Ministry shall prepare every year projections of minimum 10 years period for utilization of the electrical energy to be generated from renewable energy sources on the resource basis and the first projection shall be issued within three months following the enactment of this Law.

PART THREE
The Rules and Procedures Governing the Electrical Energy to be Generated From the Renewable Energy Sources Included in this Law

Principles of Application

Article 7– Following the entry into force of this Law, the principles of application governing legal entities possessing production licenses for generating electricity from the renewable energy sources included in this Law, are specified hereunder:

a) The electrical energy generated from the renewable energy sources included in this Law shall be purchased by the legal entities possessing wholesale and retail sale licenses on the basis of bilateral agreements to be concluded in pursuance with the provisions of paragraphs (b), (c) and (d) of this article.

b) The legal entities possessing wholesale and retail sale licenses shall be entitled to purchase YEK certified electrical energy, declared by EMRA on the basis of the projections made by the Ministry, in the amount corresponding to eight per cent of the energy they have sold in the previous calendar year.

c) Until the end of 2011, the applicable price for the electrical energy to be purchased in pursuance with this Law within each calendar year shall be determined and issued by EMRA until the date of 31st of January of every year on source basis so that in case the average wholesale price of electricity in Turkey of the preceding year adjusted according to the inflation rate is less than 6 € cents, the price can be increased up to 15% as regards electricity generated from hydraulic and geothermal sources and up to 10% as regards electricity generated from other renewable sources, without exceeding 6 € cents. The price determined accordingly shall not be less than 5 € cents and above 6 € cents.

d) As of the end of 2011, this pricing methodology shall not be applicable for the YEK certified electrical energy generation plants which are under operation for more than six years. The wholesale and retail sale companies shall purchase the YEK certified electrical energy which they are obliged to purchase on the basis of the provisions of this Law, primarily from those plants which have not yet completed a business period of 6 years, in accordance with the pricing methodology laid down in part (c) of this article, and in case the purchased amount of electrical energy is less than the ratio specified in part (b) of this article, they shall buy the remaining quantity, until reaching the ratio referred in part (b) hereof, through bilateral agreements at the price formed in the market without exceeding the average wholesale price of electricity in Turkey.

e) TETAS and the public distribution companies to be privatized possessing a retail sale license shall be exempted from the obligations specified in this Article until the date of 1st January 2006.

PART FOUR
Principles of Application for the Investment Period

Applications over the Investment Period
Article 8–

a) The real persons and legal entities establishing an isolated electricity generation plant/system by utilizing hydraulic resources with a maximum installed capacity of 1000 kW for meeting solely their own demands, shall not be claimed to pay the amounts of service described in the "Regulation on Rules and Principles Related to Signing an Agreement on Water Utilization Right for Undertaking Generation Activities in the Electricity Market".

b) The investments, within the framework of the provisions of this Law, in relation to;

1. Establishing energy generation facilities;
2. Provision of domestically manufactured electromechanical systems;
3. Research and development and manufacturing of electricity generation systems by utilizing solar cells and concentrated collectors;
4. Research and development facilities for generation of electrical energy or fuels by utilizing biomass sources;

shall be eligible for incentives determined by the Council of Ministers subject to compliance with the international commitments of Turkey.

Applications related to Acquisition of Land
Article 9– In case of allocation of all sorts of land which is under the sovereignty of the State for the purpose of generating electrical energy from the renewable energy sources included in this Law, no payments under any category including the rental allowance shall be charged over the investment period. Over the period after the completion of the investment, the rental allowance shall be paid on the basis of the rental price determined by the Ministry of Finance.

PART FIVE
Other and Transitional Provisions

Preparation of Regulations
Article 10– The regulations and communiqués shall be prepared and issued by the Ministry at most within six (6) months after the date of entry into force of this Law.

Coordination of the Implementation
Article 11– The Ministry shall provide coordination in implementation, steering, monitoring and assessment of the fundamental principles and obligations specified in this Law, and in planning the measures to be undertaken.

Sanctions

Article 12– The real persons and legal entities who breach the provisions of Article 7 of this Law shall be charged with a penalty of 250 billions TL. In case of repeating violation, their licenses shall be terminated by EMRA. The amount of monetary penalty shall be determined by EMRA every year

Provisional Articles

Provisional Article 1– The legal entities included within the context of the Build–Operate–Transfer Scheme and among the "Existing Contracts" defined within the provisions of the Electricity Market Law no:4628, who have been generating or will generate electricity from the renewable energy sources laid down in this Law, may benefit from implementation of the provisions of this Law on the condition that they waive from their rights based on the existing contracts and get generation licenses from EMRA.

The period for benefiting from implementation of the provisions of this Law for those facilities which are under operation shall be calculated by subtracting the period of operation of the facility from the 6 years period.

Provisional Article 2– Until the Draft Law on Geothermal Resources and Mineral Waters is put into effect; the recommendations determined in protection zone surveys performed by MTA for conservation of geothermal resources shall be applied. In case the surveys have not been undertaken or renewed, the recommendations shall be identified on the basis of these surveys. The positive comments of MTA shall be sought with regard to protection zone survey reports which were not performed by MTA.

Entry into Force

Article 13– This Law shall enter into force on the date of its publication.

Implementation

Article 14– The Council of Ministers shall implement the provisions of this Law.