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Renewable Energy Cooperatives

Introduction

Cooperatives are autonomous associations of persons united voluntarily to meet their common social, economic and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. Cooperatives may choose to focus on electricity, food, fuel or other products and services as their business area. As the social and economic relations in today's world grows more and more intricate, the requisite to alleviate the socio-economical gap intensifies; and thus urging the individual members of the society to take proper actions for meeting their own and, hence, the society's needs better. In this regard, cooperatives, as self-sufficient financial-social solidarity organizations, have been greatly used in a variety of business sectors for the said purpose.

Energy cooperatives, being a type of cooperatives, is a structure which empowers local generators to congregate and conduct electricity generation under the umbrella of the cooperative. While the accustomed regime of energy provision usually involved highly centralized energy infrastructures with the consumers dependent on the companies generating energy, locally and cooperatively-owned facilities for energy generation have the potential of constituting a substantially differing model of energy provision and distribution. Moreover, energy cooperatives and akin initiatives have sometimes also been important sites of technological innovation activities. In this regard, potential benefits of renewable

energy cooperatives have been recognized in Turkey and this type of cooperatives has recently drawn more attention. Renewable energy cooperatives are enabled to operate without the necessity to obtain a pre-license and license, pursuant to the Regulation on Unlicensed Electricity Generation at the Electricity Market (the "Regulation").

In this article, renewable energy cooperatives and the Turkish regulation pertaining thereto are analyzed.

Renewable Energy

Renewable energy sources (hereinafter may be referred to as "RES") capture their energy from existing flows of energy, from on-going natural processes, such as sunshine, wind, flowing water, biological processes, and geothermal heat flows. Renewable energy often provides energy in four main areas, namely; electricity generation, air and water heating/cooling, transportation, and off-grid energy services.

Renewable energy sources exist over vast geographical areas, in opposition to other energy sources, which are concentrated in a limited number of countries. Expeditious deployment of renewable energy and accordingly energy efficiency is resulting in significant energy security, climate change mitigation, and naturally economic benefits. While many renewable energy projects are large-scale, renewable energy technologies are also suited to rural and remote areas and developing countries where energy is often of great importance in the society. Accordingly, renewable energy projects have a great potential to lift the poorest nations to new levels of prosperity.

Global Background of Renewable Energy Cooperatives

Europe's energy market is undergoing a fundamental change from a system based on fossil fuels and nuclear power towards one based entirely on renewable energy. Renewable energy cooperatives have already transformed the energy market in many European countries while contributing significantly to the rejuvenation of the local economy and creating local jobs. Especially, by virtue of the incentive mechanisms such as the Feed-in Tariff, renewable energy

cooperatives have become a focus of interest in several developed countries all around the globe such as Germany, Denmark, the UK, Canada and the USA. Under auspices of the incentive mechanism called the Feed-in Tariff, which is a policy mechanism designed to expedite investment in renewable energy technologies, eligible renewable electricity generators, including homeowners, business owners, farmers and private investors, are paid a cost-based price for the renewable electricity they supply to the grid. This system empowers diverse technologies to be developed in this area and provides investors a reasonable return.

Turkish Law and Regulations

According to the electricity strategy papers published by the Turkish Government, a higher share of renewable energy sources in the electricity generation is targeted. It is expected that, by 2023, renewable energy sources will have at least 30% share in electricity generation. For the purpose of reaching this target, a specific regulation has been made in 2005, which is the Law on the Use of Renewable Energy Resources for Electricity Generation No. 5346 (the "Law"). The said Law had introduced a Feed-in Tariff for RES-based electricity with additional premium for the use of local equipment. The provided Feed-in Tariff is guaranteed for 10 years from the date of operation and valid only for RES power plants commissioned between May 18th, 2005 and December 31st, 2020.

The principles and conditions of unlicensed power generation is regulated under the Regulation. The main target of this Regulation is, among others, to provide the entrance of the small power plants to the electricity market, to provide electric energy for consumers, and to reduce the loss in electric energy. Pursuant to the Regulation, every real person or legal entity electricity subscriber may commission a power plant without being obliged to obtain a license from the Energy Market Regulatory Authority ("EMRA"), and may sell the excess amount of electricity. This arrangement may be enjoyed particularly by universities, shopping malls and large building complexes. However, electricity subscribers such as apartment building managements may not commission such power plants because it does not fulfil the requirement of having a legal entity.

Renewable energy cooperatives, in Turkey, are empowered to operate without being obliged to obtain a generation license. Pursuant to the Electricity Market License Regulation, any legal entity wishing to operate in the market is, as a rule, obligated to be granted a pre-license and license from EMRA for their operation in the market and their facilities, prior to the initiation of the market activities. Nevertheless, renewable energy cooperatives are enabled to operate without a license, in conformity with the consumption needs and number of their partners and on the condition that each installed power of the generation facility associated with each consumption facility shall not exceed 1 MW, contingent on such capacity allocation which is up to;

i. 1 MW for those having up to 100 partners,

ii. 2 MW for those having more than 100, less than 500 partners,

iii. 3 MW for those having more than 500, less than 1000 partners,

iv. 5 MW for those having more than 1000 partners.

A model articles of association for electricity generation and consumption cooperatives was published in the Official Gazette on December 18th, 2013. Real persons and/or legal entities wishing to establish a renewable energy cooperative may make use of the said model articles of association.

By way of establishing renewable energy cooperatives, consumers embody a cooperative and combine their consumptions and jointly commission an unlicensed RES power plant. In principle, pursuant to the prevalent legislation, the energy consumption of the real persons/legal entities must be measured with a common counter or all energy consumption units registered in the name of relevant real persons/legal entities must be connected to the same point or transformer in the network. However, this rule does not apply to cooperatives as the Regulation sets forth an exemption for the renewable energy cooperatives. Accordingly, the members of the cooperatives and the cooperatives themselves can satisfy their electricity needs and may receive revenue for the surplus energy within the scope of RES support mechanisms.

As per the Law, the renewable energy based surplus electricity may be purchased, to the extent allowed by the Regulation, within the period of 10 years. The price to be applied for such purchase is set forth within the Table 1 annexed to the Law. Additionally, renewable energy generation facilities may enjoy the subsidies for the local components, as per the Table 2 annexed to the Law, for 5 years commencing from the date of the commissioning of the facilities.

Moreover, renewable energy cooperatives are exempted from corporate income tax, pursuant to specific conditions set forth within Corporate Tax Law numbered 5520. According to these conditions, a renewable energy cooperative may be exempt from the said tax on the condition that its articles of association; (i) prohibits dividend distribution over capital, (ii) prohibits the dividend share allocation to chairman and members of the board, (iii) prohibits the distribution of reserves to partners, and (iv) obligates the cooperative to conduct business with its partners only. Furthermore, these provisions to be set forth within the articles of association must be abided in practice to be exempted from the said tax liability.

Conclusion

Currently, investors demonstrate a high demand for unlicensed electricity generation in Turkey; especially electricity generation from solar energy catches the most attention. Nevertheless, establishing such cooperatives and facilities have its own difficulties that lie in limited connection possibilities, coordination among relevant authorities, and the selection of plant locations. Furthermore, a public awareness can be pursued to help people comprehend better the relevant regulation and application in this sector.

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