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ELECTRICITY MARKET ELIGIBLE CONSUMER REGULATION

SECTION ONE

Objective, Scope, Legal Basis and Definitions and Abbreviations

Objective

ARTICLE 1.- The objective of this Regulation is to set forth the procedures and principles applicable to the definition of real persons and legal entities to be deemed as eligible consumers in the electricity market.

Scope

ARTICLE 2.- This regulation shall cover the eligibility criteria for real persons and legal entities, the rights and obligations of eligible consumers and the licensees supplying electricity and/or capacity to them and the rules applicable to implementation of such criteria.

Legal Basis

ARTICLE 3.- This regulation has been issued as per the provisions of the Electricity Market Law No. 4628.

Definitions

ARTICLE 4.- For the purposes of the interpretation and implementation of this regulation, the following terms shall bear the following meanings:

1. **Law:** Electricity Market Law No. 4628, dated February 20, 2001,
2. **Authority:** The Energy Market Regulatory Authority,
3. **Board:** The Energy Market Regulatory Board,
4. **President:** President of the Energy Market Regulatory Board,
5. **TEIAS:** Turkish Electricity Transmission Co. Inc.,
6. **Distribution Company:** Any legal entity engaged in electricity distribution in a certain geographical region,
7. **Preparatory Period:** The period set out in Provisional Article 3 of the Law,
8. **Bilateral Agreements:** The commercial agreements between real persons or legal entities and the legal entities holding licenses or among legal entities holding licenses for the purchase and/or sale of electricity under the provisions of civil law without requiring Board approval
9. **Applicable Legislation:** The laws, regulations, communiqués, circulars and Board decisions regarding the energy market and the license or license(s) of relevant legal entities,
10. **Market:** The electricity market covering generation, transmission, distribution, retail, wholesale, import and export of electricity and capacity, and transactions directly relating to those activities,
11. **Market Financial Reconciliation Center:** The body of the Turkish Electricity Transmission Co. Inc. that shall operate the financial reconciliation system through calculating amounts payable or receivable by legal entities operating in the market, based on differences between actual purchases – sales as a result of the real time

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physical balancing of energy supply and demand by National Load Dispatch Center, in accordance with the provisions of the applicable legislation.

12. **Non-eligible consumer:** Any real person or legal entity that can purchase electricity and/or capacity only from retail companies or from a distribution company holding retail license in its region,
13. **Eligible consumer:** Any real person or legal entity that has the right to choose its supplier, due to its consumption of more electricity than the amount set by the Board and/or its direct connection to the transmission system,
14. **Eligible consumer limit:** The quantity of electricity set and published by the Board by January 31 every year
15. **Supplier:** Any generation company, autoproducer or autoproducer group, wholesale company, retail company and distribution company holding retail license, providing electricity and/or capacity to customers,
16. **Consumer:** All eligible or non-eligible consumers, purchasing electricity for their own needs.

SECTION TWO

Eligible Consumer Scope and Principles regarding Implementation

Eligible consumer scope

ARTICLE 5.- Consumers meeting the requirements below shall be deemed as eligible consumer;

- a) The consumers directly connected to the transmission system,
- b) The consumers whose total electricity consumption amount in the last calendar year exceeds the eligible consumer limit,
- c) The consumers whose total electricity consumption amount in the current year exceeds the eligible consumer limit,
- d) Autoproducer licensees whose total electricity consumption amount, including electricity consumed from their own generation, exceeds eligible consumer limit¹
- e) Consumers whose consumption amounts in the previous calendar year do not exceed the eligible consumer limit but have committed to the relevant distribution licensee that their consumption in the current year will exceed the eligible consumer limit and consumers whose consumption amounts calculated on the basis of their connection power or contracted power in their connection agreement or subscription contract exceed the eligible consumer limit,²
- f) New consumers who have committed to the relevant distribution licensee that their consumption in the current year will exceed the eligible consumer limit, and whose consumption amounts calculated on the basis of their connection power or contracted power in their connection agreement or subscription contract exceed the eligible consumer limit³.

In cases where the actual consumption amounts of consumers that have become eligible under sub-paragraphs (e) and (f) of paragraph one remain below the eligible consumer limit effective at their application date, such consumers shall not benefit from eligible consumer

¹ Inserted by the Regulation published in the Official Gazette no 25055 dated March 21, 2003.

² Inserted by the Regulation published in the Official Gazette no 25055 dated March 21, 2003.

³ Inserted by the Regulation published in the Official Gazette no 25055 dated March 21, 2003.

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rights for twelve months following the determination of this situation. They shall purchase electricity and/or capacity within the framework of the applicable legislation. Relevant distribution licensees may receive guarantee up to 10 % of the product of the eligible consumer limit and the electricity tariff value applied to the applicant's subscriber category at the date of its application, in order to compensate for losses to be suffered if actual consumption remains below the eligible consumer limit.⁴

In addition such consumers, the real persons and legal entities exceeding the eligible consumer limit through meeting the below indicated demand aggregation conditions shall also become eligible consumers;

a) If the total consumption value of a legal entity at different consumption points in different distribution regions in the previous calendar year exceeds the eligible consumer limit,

b) If the total electricity consumption value of legal entities whose more than half of the shares are owned directly or indirectly by a legal entity, at multiple consumption points in the same or different distribution regions, in the previous calendar year, exceeds the eligible consumer limit and if the bilateral agreement with the supplier is signed by the legal entity owning directly or indirectly more than half of the shares,⁵

c) If the total electricity consumption value of multiple legal entities that have come together and formed a single legal entity or authorize a legal entity to bind a bilateral agreement on, in the previous calendar year, exceeds the eligible consumer limit; the bilateral agreement with the supplier is signed by that legal entity; and the electricity consumption values of subject legal entities are metered at a single joint meter.⁶

In cases where eligible consumers use their right to chose their supplier; joint meters or consumer meters at multiple consumption points shall be electronic meters capable of performing multi-time zone metering pursuant to the communiqué published by the Authority.

Where the legal entity owning directly or indirectly more than half of shares as described in sub-paragraph (b) of paragraph 3 is a foreign legal entity, the legal entity having eligible consumer right, solely among demand aggregating legal entities can be authorized to sign a bilateral agreement by the foreign legal entity.⁷

The electricity purchased for more than one consumer under eligible consumer umbrella cannot be re-sold for profit earning reasons.⁸

Notification of eligible consumers and record keeping

ARTICLE 6- The distribution licensees in a given region shall send written notifications to the consumers in that region whose total electricity consumption amount

⁴ Inserted by the Regulation published in the Official Gazette no 25055 dated March 21, 2003.

⁵ Amended by the Regulation published in the Official Gazette no 25916 dated August 24, 2005.

⁶ Amended by the Regulation published in the Official Gazette no 25916 dated August 24, 2005.

⁷ Inserted by the Regulation published in the Official Gazette no 25916 dated August 24, 2005.

⁸ Inserted by the Regulation published in the Official Gazette no 25916 dated August 24, 2005.

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within the last calendar year is over the eligible consumption limit, but have not used the right to choose their suppliers, that they are entitled as eligible consumers, within thirty days following the publication of eligible consumer limits in the Official Gazette.

Documents depicting that consumers falling under the scope of eligible consumers have the status of eligible consumer and indicating their total electricity consumption in the previous year are granted by TEİAŞ for those directly connected to the transmission system; and by the distribution licensee operating in the distribution region for consumers procuring electrical energy and/or capacity through distribution system. TEİAS and or distribution licensees meet such requests of consumers within ten working days following their application date.^{9 10}

The records pertaining to eligible consumers shall be kept in an up-to-date manner by TEİAS for those directly connected to the transmission system and by the distribution licensees for those who are supplied electricity and/or capacity over the distribution system. TEİAS and/or distribution licensees shall assign a “Eligible User Meter Record Number” to each eligible consumer within the framework of the procedures and principles of the Balancing and Settlement Regulation, for use in the database to be formed in this scope. “Eligible Consumer Meter Record Number” shall be used as a reference in bilateral agreements to be signed between the eligible consumers and suppliers as well as in any correspondence of the eligible consumers and suppliers with the Authority and other market participants.

Rights and obligations of eligible consumers

ARTICLE 7.- In cases where the total electricity consumption value of any eligible consumer who has used the right to choose its supplier by undertaking a bilateral agreement in the previous calendar year remains below the eligible consumer limit, such consumers shall not sign a new bilateral agreement or extend the term of the existing bilateral agreement until it regains the status of eligible consumer and shall purchase electricity within the framework of the applicable legislation.

Eligible consumers may undertake bilateral agreements for separate suppliers for each metering point where consumption amount exceeds eligible consumer limit.¹¹

In cases where their suppliers fail to provide the electricity and/or capacity they have committed under their bilateral agreements due to legal requirements, the eligible consumers shall purchase electricity and/or capacity from the distribution companies holding retail sale licenses in their regions under the relevant distribution company’s last-resort agreements as per Article 23 of the Electricity Market Licensing Regulation published in the Official Gazette no. 24836 dated 4/8/2002.

The position of real persons or legal entities as members of any autoproducer group licensee or customers of Organized Industrial Zones does not constitute an obstacle for their utilization of the right to choose their suppliers, arising from their status as eligible consumer.

⁹ Amended by the Regulation published in the Official Gazette no 25626 dated October 27, 2004.

¹⁰ Amended by the Regulation published in the Official Gazette no 25916 dated August 24, 2005.

¹¹ Inserted by the Regulation published in the Official Gazette no 25055 dated March 21, 2003.

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Any eligible consumer willing to change its supplier shall certify to its new supplier that it has fulfilled its obligations towards the previous supplier before signing a new bilateral agreement.

Before signing a bilateral agreement, the supplier may request from the distribution licensee operating in the distribution region where the eligible is located and/or from the previous supplier of the eligible consumer consumption quantities in the previous calendar year, if available, or consumption amounts in the current year if consumption values for the past calendar year are not available as well as its consumption load curve and a document indicating whether it has engaged in theft of electricity. Such requests shall be met by the relevant legal entity within ten working days.

Obligations of suppliers

ARTICLE 8.- The suppliers, that supply electricity and/or energy to eligible consumers through bilateral agreements, shall fulfill the below listed minimum requirements:

- a) inform the eligible consumers of consumer rights as well as the commercial options and potential risks under the bilateral agreement, before signing the bilateral agreement,
- b) sign bilateral agreements only with eligible consumers;
 - 1) whose meters have been installed in conformity with the communiqué published by the Authority,
 - 2) who certify that they have no debts to their previous suppliers,
- c) provide the electricity and/or capacity it has guaranteed under bilateral agreements on an uninterrupted basis within the framework of the terms and conditions of the agreement,
- d) provide the Market Financial Reconciliation Center with the necessary information within the framework of the Balancing and Settlement Regulation,
- e) provide the eligible consumers with the consumption data and consumption load curve, where meter technical specifications allow, for the last two years free of charge, if requested,
- f) provide TEIAS and/or distribution licensees with the information that enable updated record keeping pertaining to eligible consumers.

Bilateral agreements shall not contain provisions in violation of the applicable legislation.

- 1) Bölgelelerinde tüketilen toplam elektrik enerjisi miktarını,

Public Information

ARTICLE 9.- By January 25 every year, the following companies shall inform the Authority of the following data covering the previous calendar year:

- a) TEIAS: electricity consumption amounts of consumers (separately) directly connected to the transmission system,
- b) Distribution licensees;
 - 1) Total amount of electricity consumed in their regions,
 - 2) The total amount of electricity consumed by eligible consumers which have benefited from the right to chose their supplier,

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- 3) The total amount of electricity consumed by eligible consumers which have not benefited from the right to choose their suppliers although they have exceeded the eligible consumer limit.

The Authority shall be obliged to publicize these rates on its website and inform the public

Determination of reductions in eligible consumer limits and publication of new limits

ARTICLE 10.- The Board shall determine the reductions in eligible consumer limits by January 31 of each year, having due regard to the following:

- a) Promotion of competition,
- b) Adequacy in metering-communication-control infrastructure,
- c) Transaction capacity of the Market Financial Reconciliation Center,
- d) The generation capacity that may be traded through the bilateral agreements that are freely signed in the market,
- e) The statistical data regarding the eligible consumers, supplied by TEIAS and distribution companies,

The new limits calculated according to such reductions shall be published in the Official Gazette and be publicized on the website of the Authority.

PART THREE

Provisional Articles and Final Provisions

Provisional Article 1 — The practice enabling the acquisition of eligible consumer status by legal entities purchasing electricity at multiple consumption points in different distribution regions through demand aggregation shall be effective on January 31, 2004, within the framework of sub-paragraphs (a) and (b) of paragraph two of Article 5 in this Regulation.

Provisional Article 2 — From the end of the preparatory period to March, 3, 2003, legal entities with total electricity consumption more than nine million kilowatt/hour in the past calendar year may be members of autoproducer groups.

Provisional Article 3 — Legal entities engaged in generation activity as autoproducer and autoproducer group under the existing contracts, may engage in electricity and/or capacity sales activity under bilateral agreements irrespective of whether they have received license by July 3, 2003¹²

Effectiveness

ARTICLE 11.- — Provisional Article 2 of this Regulation shall take effect at the publication date of this Regulation and other provisions on March 3, 2003.

Enforcement

ARTICLE 12.- This regulation shall be enforced by the President.

¹² Inserted by the Regulation published in the Official Gazette no 25055 dated March 21, 2003.

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