Electricity and Renewable Energy Regulations in Egypt

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WHO WE ARE

Riad & Riad (R&R) is a legal practice that serves the full spectrum of the business legal needs.

R&R has developed specialized teams in a number of areas such as corporate law, M&A, labor & employment, international trade, banking, energy, infrastructure, project finance, litigation and dispute resolution.

Our project finance team has a wealth of experience working in the power and construction sector. We advise developers, procuring authorities, investors, contractors and regulators.

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Introduction

A new law for electricity has been recently issued (Law no. 87 of 2015) to replace the current single buyer model and establish a fully competitive electricity market where electricity generation, transmission and distribution activities are fully unbundled (the "Electricity Law").

In the meantime, Law No. 203/2014 was enacted for the Encouragement of the Production of Electricity from Renewable Energy Recourses (the "Renewable Energy Law"). The Law established several schemes for the private development of renewable energy projects as will be explained below.

The government has also introduced several incentives to renewable energy private developers and commercial producers. Incentives include, among others, announcing the feed-in tariff, guaranteeing access to the grids, allowing long term power purchase agreements, providing for priority of dispatch, allocating land needed for the projects at discounted price as well as guaranteeing the financial obligations of the government off-taker.

New Electricity Law 87/2015

The new Electricity Law has restructured the electricity sector in an attempt to make it more competitive. It ended up the single buyer for electricity and allowed private generation companies to sell their production to end users.

The Electricity Law created two electricity markets. The first is the competitive market where qualified consumers (high voltage customers “HV”) are allowed to freely choose their electricity suppliers based on bilateral direct agreements and negotiated electricity prices. The second is the regulated market where unqualified consumers (medium voltage customers “MV” and low voltage customers “LV”) will pay a regulated tariff and will purchase electricity from the distribution companies who will be supplied by a public trader.

The Egyptian Constitution included a special provision to get optimum benefits from renewable energy, promote its investments, and encourage scientific research in this sector.

The Law allowed third party access to the grids, and separated the government-owned and operated Egyptian Electricity Transmission Company (“EETC”) into an independent transmission system operator (“TSO”).

The Electric Utility and Consumer Protection Regulatory Agency (“ERA”) is restructured to be an independent institutional champion responsible for supervising, developing and coordinating
between electricity producers, transmitters, distributors and end users. It has become the electricity regulator in terms of licensing, designing and approving tariffs, providing a separate dispute resolution mechanism, and developing a competitive market design and structure. It is also responsible for ensuring a reliable long term supply of electricity with reasonable prices and preserved environment.

### Licenses and Permits

An investor wishing to produce, distribute or sell electricity must obtain a license from ERA, and must establish an SPV in the form of a joint stock company.

A temporary permit will be obtained in order to undertake the preliminary work and studies needed to inaugurate the project.

The licenses and the temporary permits shall be published in the Egyptian Gazette and in a daily wide spread newspaper. Producers of electricity for its own use may be exempted from the requirement to obtain the licenses and permits.

The license will be issued for a maximum period of 25 years. It may be renewed for a similar period or part thereof. The ERA shall annually examine the continued fulfillment of the license’s requirements and issue a certificate confirming the validity of the license.

Fee for obtaining the license will be 0.1% of the price of every electricity unit produced or purchased, or of the charge of interconnection with the grids as the case may be. The fee for obtaining the temporary permit shall be not less than EGP 10,000 with a maximum of EGP 1000 for every MW of the authorized capacity.

It is not allowed to assign the license or the permit to third party, unless a written approval is obtained from ERA to this effect.

### Electricity Production and Transmission

According to Article (1) of the Electricity Law, companies licensed to produce electricity are permitted to sell their production either to EETC, the authorized distributors or to the end customers. Licensees are under a duty to provide their services to customers without discrimination.
EETC is mandated to allow investors to sell electricity directly to consumers using its transmission network and the distribution grids subject to access fee (wheeling charge) via network connection contracts.

EETC shall monopolize the transmission and operation of electricity countrywide, and will be the TSO of the power system in Egypt. EETC is mandated to ensure long-term ability of the transmission system to meet the demand on electricity and to keep the system secure, reliable and efficient. For example, it is authorized to:

- Operate, manage and maintain the ultra-high and high voltage (UHV & HV) transmission system.
- Develop and execute ultra-high and high voltage (UHV & HV) transmission projects.
- Manage the electricity demand in the regulated market by purchasing electricity from authorized producers.
- Allow third parties to use its transmission network on a non-discriminatory basis to fulfill the electricity needs of customers and distributors.
- Executing interconnection projects with neighboring countries.

EETC can implement its projects either in its own or in partnership with the private sector.

Private electricity distributors are allowed to develop and implement electricity distribution projects on medium and low voltage (MV & LV), and to operate and maintain the distribution network in the licensed geographical area. They are allowed to sell MV & LV electricity to unqualified users in consideration for a tariff to be approved by ERA. In case the Cabinet announced a tariff less than that approved by ERA, the Government shall pay the difference between them to the licensed distributors.

**Renewable Energy Law 203/2014**

In order to encourage the private sector to produce electricity from renewable energy sources, Egypt has issued the new Renewable Energy Law no. 203 of 2014.

Article two of the Renewable Energy Law adopted several development schemes for the private development of renewable energy projects, including competitive bids, feed-in tariff, and independent power production through third party access.
### Competitive Bids

Under this scheme, the New and Renewable Energy Authority ("NREA") shall issue tenders to private-sector companies to install renewable energy power stations via EPC contracts. Such stations shall be operated by NREA. Produced electricity shall be sold to EETC at a price to be suggested by ERA and approved by the Cabinet.

In September 2015, the Ministry of Electricity and Renewable Energy has issued special public procurement regulations. The regulations apply on all NREA procurement activities such as purchase and contracting transactions, services and supply work including maintenance and installation, consultancy and technical works as well as real estate licensing and leasing. The regulations allow NREA to sell the electricity produced by its stations either to the EETC according to prices determined by ERA and approved by the Cabinet or to the end users directly to fulfill their needs.

### BOOT Projects

The second scheme allows EETC to issue tenders to private-sector companies to build, own, and operate and Transfer (BOOT) renewable energy power stations and sell the generated electricity to EETC at the terms and prices agreed between the EETC and the investor.

### Feed in Tariff (FiT)

Private sector investors are allowed to build, own and operate renewable energy power stations and sell the generated electricity to EETC or to licensed distribution companies via power purchase agreements ("PPA") in consideration for a pre-announced feed in tariff ("FiT").

The period of a PPA will not exceed 25 years for solar energy projects and 20 years of wind energy projects. The FiT program is phased out into regulatory rounds. The first round of the FiT program ends on October 2016.

The Egyptian government has announced an interim target for the first round (2015-2017) of 4,300 MW of both solar and wind energy, broken out as follows:

- 300 MW for small solar systems-roof tops (less than 500 KW).
- 2,000 MW of medium and large size of solar plants.
- 2,000 MW of medium and large size of wind plants.

**FiT will be paid in EGP based on a USD exchange rate formula.**

**For solar projects:** 15% of the due tariff will be calculated at a fixed rate of 7.15 EGP per USD, and 85% will be floating at the prevailing rate at invoicing time.

**For wind projects:** 30% at a fixed rate of 7.5 per USD, and 70% at a floating rate.
The FiT for electricity generated from solar and wind projects were announced by the Egyptian Cabinet by virtue of the Prime Minister has issued Decree no. 1947 of 2014.

The Egyptian government is committed not to change these FiTs for a period no less than 2 years or upon achieving the targeted energy level. In all cases new FiTs will not apply retrospectively on concluded PPA.

Qualified developers are required to establish a project company (SPV) in the form of a joint stock company (JSC) with a minimum capital of EGP 15 million.

A standard form template for the PPA has been announced by the government with the review of international financial institutions and the State Counsel.

**Independent Power Producer**

Under this scheme renewable energy independent power producers ("IPP") are allowed to conclude bilateral purchase agreements with eligible consumers. EETC and distribution companies are mandated to allow investors to sell electricity directly to consumers using their grids subject to grid access fee (wheeling charge) via network connection contracts.

Private renewable electricity producers are provided with guaranteed access to the transmission and distribution grids under clear, transparent, and non-discriminatory basis. Costs of interconnection with the grids will be borne by the producer. EETC and the distribution companies are committed to buy the electricity generated from renewable energy or pay for it (take or pay) in case it is unable to transmit the produced energy.

**Further Incentives and Reforms**

The Egyptian government is introducing some further incentives to electricity projects including the following:

**Extra Non–Tax Incentives**

On 12 March 2015, the Presidential Decree 17/2015 was issued to introduce substantial amendments to the Egyptian Investment Law no. 8/1997. The amendments generally aim at attracting new investments to Egypt through offering further incentives and guarantees, removing obstacles, and streamlining
the procedure. Incentives include, for example, trimming sales tax to 5% from as high as 10%, and setting customs duties on equipment used for production at 2%.

Further non-tax incentives are offered to specific sectors including electricity projects:

- Refunding the expenses paid to extend infrastructure facilities to the project’s land. Such refund will be after the commencement of the project.

- Subsidizing the technical training programs of the employees as well as the social insurance subscriptions.

- Allocating the land owned by the government free of charge or at discounted prices.

Subsidies Policy Reform

It is understandable that feed-in tariff system succeeds in an unsubsidized energy environment. The Egyptian government accordingly announced a gradual liberalization of the electricity prices over the coming five years with an aim to fully remove electricity subsidies by 2019. The Egyptian Prime Minister issued implementing decrees with the increased electricity tariff for the years 2014 till 2018.

Sovereign Guarantee of Off-taker payments

The Egyptian government represented by the Ministry of Finance (MoF) is authorized by virtue of Law 14/2013 to guarantee all financial obligations of the Egyptian Electricity Holding Company and its affiliated companies under all projects they implement in partnership with the private sector. This means that the MoF will guarantee the obligations of EETC as the government off-taker under the power purchase agreements (PPA) concluded with electricity producers.