

Renewables Sector of Azerbaijan: Market Entry Requirements



Elchin Mammadov
Legal Director,
PwC Azerbaijan



Roza Ramazanova
Senior Legal Consultant,
PwC Azerbaijan

What you Need to Know

On 2 August 2023 the Rules for selection of an energy producer from renewable sources were approved by the Decree of the President (the “**Rules**”). The Rules determine the procedure for selecting a producer of electric energy from renewable sources, as well as define specifics and terms of agreements with the producer and criteria for the formation of electricity tariffs. In the context of the Rules, this article will cover the following:

- What is considered “an area of renewable energy sources”?
- Rules for nomination of the electric energy producer in the area of renewable energy sources;
- Agreements to be concluded with the electric energy producer in the area of renewable energy sources.

What is considered “an area of renewable energy sources”?

The “Use of Renewable Energy Sources in the Generation of Electricity” Law dated 31 May 2021 (the “**Renewable Energy Law**”) introduces a mechanism for designation of a land plot or water basin as an area of renewable energy sources.

The Renewable Energy Law envisages creation of an information system for the purpose of effective use of renewable energy potential. The information system includes an atlas of potential of renewable energy sources in Azerbaijan (the “**Atlas**”).

The Atlas is designated to contain up to date information about the land plots (water basins) that can be utilised as potential renewable energy sources based on the preliminary assessment, area boundaries as well as any other relevant information.

The Cabinet of Ministers determines whether any particular land plot or water basin can be regarded as an area of the renewable source. Such determination is made on the basis of a proposal of the Ministry of the Energy. When preparing the proposal, the Ministry of Energy includes topographical map with the location, dimensions and boundaries of the land plot (water basin) and assessment of renewable energy

potential on the land plot (water basin).

Additionally, the proposal indicates information about interest (i.e. lease, ownership etc.) in the land (water basin), number of people settled in the area and construction facilities located on that land. It also contains information about losses and deprivations likely to be suffered as a result of the utilisation of the land plot (water basin) for the purposes of electricity generation, as well as initial agreement(s) with holders of respective interest in the land plot (water basin) about transfer of rights.

In the decision on determining the land plot (water basin) as an area of renewable energy sources, a period of no more than 2 years is determined for obtaining a permit for the construction of a power plant in accordance with the Urban Planning and Construction Code. The specified term can be extended for no longer than 1 year by the Cabinet of Ministers on the basis of a reasoned application of the Ministry of Energy. From the date of the decision:

1. the prospective land plot (water basin) is recognized as the area of renewable energy sources;
2. the Ministry of Energy launches the process of the nomination of the electric energy producer in the area of renewable energy sources;
3. the Ministry of Energy puts an arrangement in place for the transfer of rights over the land plot (water basin).





Nomination of an electric energy producer

An electric energy producer for the specified area of renewable energy sources is selected by the Ministry of Energy through auction or direct nomination. The Rules explain each method in detail.

I. Direct Nomination.

The direct nomination is granted with the consent of the President where the project is of strategic importance or the auction for the selection of the electric energy producer fails. An example of direct nomination is development of the 230-megawatt Garadagh Solar PV Plant by MASDAR - UAE based global leader in renewable energy and green hydrogen.

II. Auction.

The way the auction is conducted can vary based on nomination criteria. An open auction occurs when the sole criterion for winning is the electricity tariff. In this case the bidder with the lowest electricity tariff offer wins the auction. On the other hand, open competition takes place when multiple criteria, including financial indicators, workforce, technological solutions, must be met by bidders.



Agreements to be concluded with the electric energy producers in the area of renewable energy sources

The following agreements are concluded with the electric energy producer selected through auction or direct nomination: investment agreement, electricity purchase agreement and agreement on connection to the electric network. Every agreement should include standard provisions outlined in the Civil Code and other relevant legislation.

The Rules also specify distinct clauses that must be included in each agreement. Thus, the investment agreement between the electric energy producer and Ministry of Energy encompasses several key aspects, such as licences and permits to be obtained by the electric energy producer, electric energy producer's obligations for contributing to economic development.

An electricity purchase agreement is signed between the electric energy producer and "Azerenerji" Open Joint Stock Company. It outlines the comprehensive terms and conditions governing electricity purchase between two parties. Finally, agreement on connection to the electric network is entered into by the state electric power enterprise (or power supply enterprise) and electric energy producer. It sets out the rights and responsibilities of both parties for the physical connection to the power grid.



Authors' biography

Mr. Elchin Mammadov is Director at PwC Azerbaijan, Head of Legal Practice.

He has extensive experience in various fields of law including contracts, construction, project finance and energy law. Elchin is dual qualified and admitted to practice as a lawyer in Azerbaijan and as a solicitor in England and Wales.

He is a member of the Technology and Construction Solicitors' Association (TECSA) and Chartered Institute of Arbitrators (CIArb).

Ms. Roza Ramazanova is a Senior Legal Consultant at PwC Azerbaijan.

She has more than 3 years of practice and has been advising businesses and individuals on matters related to various aspects of law, including corporate, commercial and contract law, employment, migration matters etc.

Roza holds Bachelor Degree in Law from Baku State University and Master Degree in International Law from University of Glasgow.