

BGI Law Brief

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Rule of Electricity Distribution Network

On June 26, 2021, the Georgian National Energy and Water Supply Regulatory Commission adopted the Rules of Electricity Distribution Network. Majority of the rules entered into force on July 1, 2021, while some are to become effective on October 1, 2021, and January 1, 2022.

The rules of the electricity distribution network regulate the issues related to the distribution of electricity between the electricity distribution system operator, the supplier and the final consumer, as well as the relationship between the system operator and the transmission system operator.

The rules establish the terms and conditions of service related to the distribution activities of the system operator, the conditions for connection to the distribution network and capacity increase, the relationship between the supplier and the distribution network operators, including the conditions related to the access to the distribution network. It also establishes operational requirements for the distribution network security, distribution network operation procedures in normal and emergency modes, malfunctions, force majeure and other delays, as well as distribution network operation and development planning and distribution network operation and control.

The aim of the rules is to ensure that the system operator service is accessible to all, is customer-oriented, based on simple, transparent and fair conditions as well as to ensure the effective functioning of the electricity retail market and promote competition in compliance with the requirements of the rules, with the distribution system, with non-discriminatory and unrestricted access of system users.

Changes to the Electricity Market Rules

On June 24, 2021, Georgian National Energy and Water Supply Regulatory Commission adopted changes to the Resolution No.46 on the Electricity Market Rules.

The stated purpose of the amendments is to enhance transparency and competition of the market, clarify procedures for registering as a participant of the market, rules of paying service fee of the market operator, etc.

One of the changes ensures the confidentiality of the representative of market participants, whereby information about the representatives may be disclosed only with the consent of that participant and the representative itself. Qualifications of the representative is now regulated in detail under Article 13 of Annex 1 of the Resolution.

Other amendments include the change of the rule of determining the equilibrium point of the market, promotion of liquidity, matters regarding the financial guarantees, etc.

Lastly, most of the provisions of the Resolution enter into force on January 1, 2022 as opposed to July 1, 2021 as was previously determined. Articles 33-42 of Annex 1 enter into force on July 1, 2022.

Changes to Tax Legislation

According to the recent changes to the Tax Code of Georgia (hereinafter – the “TCG”), the income of non-residents that are neither established nor have habitual residence or fixed establishment in Georgia received from supplying digital services on the territory of Georgia shall be subject to VAT. Article 47¹ of the Order No.996 of the Minister of Finance of Georgia which addresses administration and reporting of this tax obligation is scheduled to come into effect as of October 1, 2021, as per recent changes to Order No.996 dated July 27, 2021.

Offshore digital service providers must register on the VAT Portal of Digital Services (available on the following website: <https://nr.rs.ge/>) to report and pay the VAT. Pursuant to recent changes to the applicable regulation, VAT can be paid in USD, EUR or GEL, which can be selected at the time of the registration on the VAT portal.

Changes to Product Safety and Free Movement Code

On July 12, 2021, the Parliament of Georgia adopted amendments to the Product Safety and Free Movement Code, changing the rules of operation of newly constructed building. The amendments entered into force on July 28, 2021.

The amendment prohibits operation of the building until the relevant act on the exploitation of the building is issued in accordance with the rules established under the legislation of Georgia. The rule also prohibits supply of electricity and natural

gas to such buildings, unless it is used for completion of construction.

The amendments aim to ensure that the completed buildings will be put into operation. The owners of the property may register their property not as “under construction”, “unfinished”, but as a completed construction. In addition, owners will be given the opportunity to develop their property at their own discretion in accordance with the law, including through establishment of homeowners’ associations.

The amendments also introduced temporary rules of exploitation of buildings within the administrative territory of Tbilisi, in order to facilitate and ease the procedure of exploitation of the buildings built before August 18, 2020.

Revamp of Law on Entrepreneurs

On August 2, 2021, the Parliament of Georgia adopted the new Law on Entrepreneurs, fully replacing current corporate law, which has been effective since 1994. The new law shall enter into force on January 1, 2022.

Objective of the new law is to fill the gaps of the corporate legislation which has caused numerous practical issues. Changes also reflect the obligations of Georgia undertaken under the EU – Georgia Association Agreement, to harmonize Georgian law with, *inter alia*, corporate legislation of the EU.

The new law takes on the issues of the departure of partner from the company, conflict of interests, transparency and modernization of corporate governance, liquidation and distribution of property, etc.

To simplify and ensure more effective incorporation of legal entities, the new law introduces the notion of a ‘standard charter’, which shall include default, non-individual terms for each form of entity. Forms of standard charters shall be approved by the Minister of Justice.

The law also amends the role of trade names of corporate entities. Namely, a company can use fictional name for its trade name, however it shall not use already existing names of other enterprises. Currently, numerous companies use identical names, leading to confusion. Consequently, such amendment aims to prevent such issues and make each company name unique. To that end, the law also reintroduces the notion of a ‘business letter’, which has to include exhaustive information of a company imperatively established by the new law.

For the ease of communication with the Public Registry, the law also introduces the notion of an ‘electronic address’, which is an authorized user page granted by the Public Registry to the company within unified electronic portal maintained by the Public Registry.

One of the major changes to the incorporation of JSC is the mandatory initial capital, which shall amount to at least 100,000 GEL at the time of registration.

Enactment of the new Law on Entrepreneurs has triggered changes in various major laws, such as Civil Code, Civil Procedure Code, Law on Securities Market, Law on National Agency of Public Registry, Labour Code, Law on Commercial Bank Activities etc. Other related changes are planned to be implemented in the future.

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