Protection of existing RES producers
The Greek experience and retroactivity
I. Introduction

Retroactive measures refer to provisions of laws or other administrative acts that modify vested rights and obligations related to facts that have occurred before the entry into force of the legal provision.

Retrospective measures are the ones brought upon by laws or other administrative acts that modify vested rights and obligations only ex nunc, i.e. from the date of their publication.
The evolution of the RES support scheme

- **Law 2244/1994**
  - Introduction of the Feed-in-Tariff System

- **Law 3468/2006**
  - Rules for guaranteed FIT - Plant operators are contractually entitled against LAGIE to the payment of electricity exported to the grid.
  - The support scheme closed on 31 December 2015

- **Law 4414/2016**
  - RES and CHP plants are awarded a sliding Feed-in Premium.
  - from 2017, Feed-in Premium is granted through tenders.
II. Structure of the market

Market participants in the Greek electricity market

Generators and Importers who inject energy to the System. Under the current energy legislative framework, generators are obliged to sell the entire electricity produced to a mandatory pool (mandatory pool market structure).

The Market and System Operators (LAGIE S.A, DEddie S.A, IPTO), representing the non-competitive aspects of the market and administering all the financial transactions between generators and suppliers.

Suppliers who purchase energy from the mandatory pool and sell to the final retail consumers.

Consumers (domestic, industrial or commercial) who receive and pay electricity on the basis of retail contracts concluded with suppliers.
ADMIE, LAGIE and the RES plant operator conclude a contract.

The RES plant is connected to the grid.

ADMIE measures the amount of electricity the RES plant operator exports to the grid.

The RES plant operator issues an invoice to claim payment of the FiT.
The Greek wholesale electricity market model

Description of the Greek Electricity Market
(source: Greek Regulatory Authority of Energy - www.rae.gr)
RES Special Account

Inflows

- Amounts paid by the electricity suppliers, corresponding to the renewable electricity injected in the transmission system and distribution grid situated in the mainland and on the interconnected islands (SMP).

- Amounts paid by the Suppliers of the Non-Interconnected Islands for the power absorbed on these islands’ systems.

- «Special Levy for the Reduction of Greenhouse Gas» (SLRGG, in Greek: ETMEAR) which varies among different customers’ categories and which is paid by every single electricity consumer in the country.

- Special levy of 2 euros per MWh of energy produced has been imposed on lignite fired units.

- Extraordinarily, the revenues accrued from the auctioning of the undistributed greenhouse gases emission rights for the period 2013-2015 will also be transferred to the RES Special Account.
III. Special Solidarity Levy

According to Law 4093/2012, the solidarity levy is calculated as a percentage of the price for electricity injected to the System or the Grid by the Producer, before taxes, and amounts to:

- 25% for PV stations before 31.12.2011
- 30% for PV stations before 01.01.2012
- 27% for PV stations after 01.01.2012
- 10% for remaining RES and C.H.P. stations
III. Special Solidarity Levy

Law 4152/2013

These percentages of the “solidarity levy” were further adjusted and increased according to Law 4152/2013.

- 34% to 37% for PV stations from 01.01.2013 to 20.06.2013 and for sales after the 01.01.2013
- 40% to 42% for PV stations after 01.06.2013
# IV. New Deal

Law 4254/2014, also called the New Deal, introduced a reduction in the feed-in tariffs for existing Power Purchase Agreements concluded between RES Producers and the Greek Market Operator.

## The parameters defining the reduced prices

| a. | The stations’ connection date to the System. |
| a. | The stations’ installed capacity (P/V stations up to 100kW, P/V stations from 100kW to 500kW, P/V stations from 500kW to 1MW, P/V stations from 1MW to 5MW, P/V stations larger than 5 MW) |
| a. | Their location (Interconnected System - Non Interconnected Grid). |
| a. | Whether the specific project has been awarded any kind of public aid or financial support (e.g. in accordance with the Development Act No 3299/2004). |
| a. | Whether the project is installed on a rooftop. |
| a. | Whether the station belongs to a professional farmer. |
IV. New Deal

Obligation to issue a credit invoice

“Within two (2) months after the enforcement of this paragraph, the RES and CHP electricity Producers,..., proceed to the issuing and delivery of a credit invoice based on the Specific Information Note issued by LAGIE for the Interconnected System and DEDDIE for the net of the Non Interconnected Islands. The RES and CHP electricity Producers are obliged to issue a credit invoice according to the Code of Tax Reporting of Transactions (law 4093/2010), according to which they provide a discount on the total value of the energy infused in 2013 which amounts to:

a) 34% for P/V stations connected until 31.12.2009,
b) 35% for P/V stations connected from 1.1.2010 to 31.12.2011
c) 37% for P/V stations connected from 1.1.2012 to 31.12.2012,
d) 37.5% for P/V stations connected from 1.1.2013 to 31.12.2013,
e) 20% especially for P/V stations up to 100KW (including stations owned by professional farmers)
f) 10% for other RES/ CHP.”
IV. New Deal

Judicial Remedies

**Tax appeal**
- National Administrative Courts
- In case the measure is considered to be taxation
- Electricity Market Operator is considered a public body

**Action for annulment**
- Council of State
- Electricity Market Operator is considered a public body

**Law suit**
- Civil Jurisdiction
- Compensation stemming from the unilateral modification of their contracts

**Complaint to European Commission**
- DG COMP
- Illegal and incompatible State Aid
That’s it

Thank you for your time and attention!