LEGAL FRAMEWORK ON RENEWABLE ENERGY DISTRIBUTION CONNECTED TO THE PUBLIC ELECTRICITY GRID

CHAPER I

*General Provisions*

Section 1°.- The aim of this Law is to set the policies and the legal and contractual conditions for renewable energy generation by distribution grid users for their self-consumption and for the eventual feed-in to the grid of energy surpluses, and to set the obligation of the providers of the distribution utility service to facilitate such feed-in as well as guarantee the free access to the distribution grid, without prejudice of the suitable powers of the provinces.

Section 2°.- Renewable Electricity Generation shall be stated of national common interest, for self-consumpion or for the feed-in of potencial electricity surpluses into the distribution grid, under the technical requirements that the regulation may set considering as goals the energy efficiency, the decrease of losses in the interconncected system, the potencial decrease of costs for the electricity system as a whole and the environmental protection provided in Section 41 of the National Constituion and the protection of users’ rights regarding equity, non-discrimination and free access to services and electricity transport and distribution services and facilities.

Section 3°.- For the purpose of this Law, the following definitions shall be applied:

1. Billing net balance is the system drafted to compensate the costs of the electricity demanded with the value of the electricity fed in to the distribution grid while billing, pursuant to the billing method that the regulation may set forth;
2. Demanded energy is the real electricity amount taken from the distribution grid in the supply point located at the user-generator’s domicile.
3. Fed-in energy is the real electricity amount fed in to the distribution grid in the supply point located at the user-generator’s domicile, in accordance with the principle of free access set forth in Section 56 of subsection e) of Law 24,065.
4. Jurisdictional regulatory entity is the regulatory body or the supervising authority in charge of controlling the activity of the distribution electricity utility suppliers in each jurisdiction;
5. Pieces of equipment for distributed generation includes the equipment and systems for the transformation of primary renewable energy into electricity for self-consumption and which are connected to the distribution grid for the purpose of feeding in to such grid the potential generated energy surplus;
6. Measurement equipment refers to such electricity measurement equipment certified by the competent authority and which shall be installed for the purpose of measuring the demanded, generated energy and/or energy fed in to the distribution grid by the user-generator; such measurements shall be independently stored to be later checked;
7. Renewable Energy Sources are the sources set forth in Section 2° of Law 27191 named ‘Renewable Energy Legal Framework’.
8. Distributed generation means renewable energy electricity generation by distribution utility users connected to the utility supplier grid; such users shall fulfill the technical requirements that the regulation may set forth to feed in the self-consumption surpluses to such public distribution grid;
9. Electricity distribution utility supplier or distributor is defined in Section 9° of Law 24,065 named ‘Electricity Legal Framework’; such distributors are responsible for the provision of electricity to final users in their competent area;
10. User-generator is the distribution utility user owning renewable energy generation equipment under the terms of the previous subsection h) and which fulfills the technical requirements to feed the self-consumption surpluses into such grid, under the terms that this Law and its regulation set forth. Large users or self-generators of the Wholesale Electric Market are not included in this definition.

Section 4°.- All users of the distribution grid have the right to install renewable electricity distributed generation equipment up to a capacity amount equal to the capacity ruled by the contract signed with the supplier for their demand, as long as such capacity is included within the framework of Section 6° of this Law and is duly authorized.

Distribution grid users requiring the installation of a capacity amount greater than the capacity amount purchased by virtue of a contract for their demand shall require a special authorization before the distributor, pursuant to the provisions that the regulation of this Law may set forth.

Section 5°.- All user-generator shall have the right to generate electricity from renewable sources for self-consumption and to feed in their electricity surpluses to the distribution grid, as long as they fulfill the technical requirements that the regulation may set forth.

Section 6°.- For the purpose of this Law, the regulation may set forth different categories of user-generator on the grounds of the amount of capacity purchased by virtue of an agreement and the amount of generation capacity to be installed.

Section 7°.- As of the enactment of this Law, all projects for the construction of national public buildings shall consider the use of any distributed generation system from renewable sources, pursuant to the potencial use of such generation in the area where the system is located at. The Environmental Impact Report shall be submitted, when appropriate, according to the applicable rules of the corresponding jurisdiction.

The Enforcement Authority shall carry out a progressive study on the existing public buildings, and shall suggest the entity responsible for the control of such buildings the inclusion of an energy efficiency system, considering the renewable distributed generation capacity, pursuant to the mechanisms herein provided.

CHAPTER II
*Authorization for connection*

Section 8°- The connection of the equipment for renewable distributed generation by the user-generator for self-consumption with feeding in of their electricity surpluses to the grid shall prior obtain the relevant authorization, Such authorization shall be requested to the distributor to the user-generator.

The distributor shall answer such request within the same term that the local regulation sets forth for the meters’ request answer. The distributor may not reject such request in the event that it refers to the installation of certified equipment. Once the term is expired, or if the request is rejected, the user-generator may submit the claim to the jurisdictional regulatory entity.

Section 9°- For the granting of the authorizations mentioned in this chapter, the jurisdictional regulatory entity shall request a technical and secury assessment of the installation of distributed generation equipment proposal from the interested party by the distributor. Such assessment shall adjust to the regulation of this Law, and shall be carried out within the terms set forth by each jurisdiction for the installation of meters.

The regulation shall consider the measures that shall be verified for the purpose of guaranteeing the safety of the individuals and the security of goods, as well as the security and continuity of the service provided by the electricity distributor. In every case, the participation of the user-generator in the authorization process shall be guaranteed, by himself of by the technical consultant that he may authorize.

Section 10.- Once the technical assessment is approved, the user-generator and the distributor shall enter into an electricity distributed generation agreement, in accordance with the general guidelines that the regulation of this Law may set forth. Any additional bonus that the user-generator may receive for the energy shaving during the periods when he will not feed energy into the grid shall be included in the agreement, as well as the method to find the value of his contribution to the grid.

Section 11. Once the user-generator has obtained the authorization, the distributor shall make the connection and perform the installation of the measurement equipment, and shall authorize the feed-in of energy into the distribution grid.

The costs of the measurement equipment, its installation and the necessary works to allow for the connection to the grid shall be paid by the user-generator, as long as such costs shall not be paid by distributors under the Law 24,065 and/or the corresponding concession agreements. Such costs may not imply additional costs for other users connected to the same distribution grid.

The installation and connection cost service, the request of a new supply or a change of tariff shall never exceed the fee set for the change or installation of a meter.

In the event of a dispute, the user-generator may submit the claim before the jurisdictional regulatory entity.

CHAPTER III

*Billing Mechanism*

Section 12.- Each distributor shall perform the compensation estimate, and shall manage the price for the energy fed in to the grid as a consequence of the renewable electricity distributed generation under the net balance billing model on the grounds of the following guidelines.

1. A feed-in tariff for each kilowatt-hour delivered to the distribution grid shall be set for the user-generator. The price of the feed-in tariff shall be set forth by means of the regulation in accordance with the stational price corresponding to each type of user that the distributors shall pay in the Wholesale Electric Market (MEM), pursuant to Section 36 of Law 24,065 and its regulation;
2. The value of the feed-in tariff of each user-generator shall be applicable as of the installation and connection of the corresponding measurement equipment by the distributor;
3. The distributor shall charge the volume of energy demanded and the volume of energy fed in the grid by the user-generator and the prices corresponding to each one per kilowatt-hour in the bill that he usually issues to the user-generator for the electricity service provided.

The value that the user-generator shall pay shall be the result of the net estimate between the monetary value of the energy demanded and the monetary value of the energy fed into the grid before taxes. No additional tax charges may be applied on the energy amount delivered to the system by the user-generator.

To empower the Federal Bureau of Public Revenue (AFIP) to enforce the necessary complementary rules so as to implement and rule the tax issues according to the provisions set forth in this subsection:

1. If there is a monetary surplus in favor of the user-generator for the kilowatt-hours fed into the grid, such surplus shall be considered a credit to be included in the bill of the following periods.

If such credit still exists, the user-generator may request the distributor the compensation of the positive balance that may have accumulated within a term to be set forth by the regulation and which shall not be greater than six (6) months. The procedure for the obtaining of such credit shall be established by the regulation of this Law;

1. If the user-generator is a common hold co-owners’ association or a real estate complex, the credit shall be granted to such co-owners’ association or real estate complex;
2. The mechanisms and conditions for the assignment or transfer of credits derived from the feed-in of energy between users from the same distributor shall be set forth by virtue of the regulation.

The distributor may not add any additional charge for the grid mantainance, access fee, electric replacement, or any other item related to the distributed generation equipment installation.

CHAPTER IV

*Enforcement Authority*

Section 13.- The Enforcement Authority shall be appointed by the National Executive Branch, and shall have the following powers:

1. To set forth the necessary technical and administrative rules for the approval of renewable electricity distributed generation projects by the user-generator. In order to draft the technical rules, the following shall be considered, at least: the safety of individuals and the security of goods, the continuity and quality of service, the quality of the product and the capacity allowed for each user-generator. The estimate methodology shall be identified. In every case, all rules for regulation and certification of equipment, as well as local rules that set forth the requirements for installers shall be based on IRAM rules or similar rules;
2. To set forth the rules and guidelines for the authorization to connect to the grid, which shall be requested by the user-generator to the distributor;
3. To set forth the requirements and terms related to the information that the distributor and/or the jurisdictional regulatory entity shall provide;
4. To perform the rol of trustor in accordance with the provisions set forth in Chapter V of this Law;
5. To jointly draft, with other ministries, active policies to promote the local manufacturing of renewable distributed generation equipment, and the acquisition and installation of equipment by user-generators;
6. To promote the installation of companies to manufacture renewable distributed generation equipment in existing or future industrial complexes;
7. To jointly draft, with other ministries, the training policy that the industry may require;
8. To set forth the value of the feed-in tariff;
9. To apply, by virtue of the regulation, the proper promotional benefits for the development of the distributed generation, pursuant to the provisions set forth in Chapter VI;
10. To set forth the general guidelines of the electricity distributed generation agreements that shall be signed by the distributor and the user-generator;
11. To set, by means of IRAM rules or similar rules, the suitable criteria for the certification of equipment and distributed generation, considering its quality, installation and performance;
12. To assess the design and execution of a program for the implementation of distributed generation at national public buildings, and to set the mandatory minimum contribution of the systems to be installed;
13. To set forth the mechanisms and conditions for the assignment and transfer of credits from the energy feed-in between users of the same distribution grid;
14. Those renewable electricity generation equipment which, at the time of the effectiveness of this Law, had already been connected to the distribution grid, shall adjust to this Low under the mechanisms thay may be set forth.

Section 14.- The jurisdictional regulatory entities shall control, within their competence, the fulfillment of the provisions set forth in this Law.

Section 15.- This Law, its regulation, the technical rules and the general requirements that the enforcement authority may establish shall be in force in the whole national territory.

The jurisdictional local provisions that may be issue shall not interfere with the normal provision of the National Interconnection System and in the Wholesale Electric Market.

Chapter V

*Trust Fund for the Development of Distributed Generation*

Section 16.- To create the public trust fund named Fund for the Renewable Distributed Generation, hereinafter, FODIS, or the Fund, which shall be an administrative and financial fund in force in the whole territory of the Argentine Republic, with the scope and the restrictions set forth in this Law and the complementary rules that may be set forth by the Executive Branch.

Section 17.- The aim of the Fund is the allocation of trustee assets to the granting of loans, incentives, guarantees, the making of capital contributions and the acquisition of other financial tools for the implementation of renewable distributed generation systems.

Section 18.- To appoint the Federal State, by means of the Enforcement Authority, as trustor and beneficiary of the Fund and the public bank chosen by the trustor as trustee.

Individuals domiciled in the Argentine Republic and legal entities recorded in the country with distributed generation projects approved by the authorities of the Fund and fulfilling the provisions set forth by the regulation of this Law shall be deemed beneficiaries.

Section 19.- The equity of the FODIS shall be comprised by the following trust assets:

1. Resources from the national budget annually approved by the National Congress, which shall no be lesser than fifty percent (50 %) of the real savings on fossil fules due to the inclusion of renewable distributed generation corresponding to the previous year, according to the estimate that the Enforcement Authority may apply;
2. The return of capital and interest of the financing granted;
3. The result of its operations, the income, earnings and investment of trust assets, contributions, subsidies, legacies or donations that may be accepted by the FODIS;
4. The resources from multilateral lending agencies;
5. Incomes received from the issuing of trust securities by the trustee for the account of the Fund. For such purpose, the Fund may request the approval of the National Treasury under the terms that the regulation may set forth.

For the first year of effectiveness of this Law, a five hundred million budget ($ 500,000,000) shall be allocated to the FODIS. The Chief of Staff shall set the relevant budgetary adjustments for the purpose of executing the provisions herein set forth, by means of the re-allocation of national budgetary ítems corresponding to the year of effectiveness of this Law.

As of the second year of effectiveness of this legal framework, the total amount of budgety allocation shall include the amounts that were granted the previous year and which are necessary for the continuity or finishing of the project approved and under construction.

Section 20.- At any time during the effectiveness of the FODIS, the parties of the trust agreement may design it by means of different integrated public trust funds with the trust assets provided in the previous section, with the following specific and exclusive allocation:

1. To finance the tools set forth in Section 21 and to guarantee the charge of such tools;
2. To guarantee the repayment of financing granted by third parties pursuant to this Law; and
3. To issue debt securities.

Trust assets included in such trusts shall not be applicable to the payment of liabilities different from the ones provided in each one of them. The separation of equities shall be guaranteed to safeguard the proper performance of the FODIS when pursuing its purposes.

Section 21.- For the pupose of its aim, the FODIS may implement the tools that are listed below, in order to facilitate the acquisition and installation of capital goods set forth in this Law:

1. To provide funds and grant easy payment terms by means of loans;
2. To reimburse or subsidy percentage points of the credit interest rate that it may grant or of credits in which financial entities or other financing providers participate. In this case, the credit risk shall be taken by such entities, which shall be in charge of the assessment of the credit risk;
3. To grant incentives to the feed-in of generated renewable energy and/or discounts for the acquisition of renewable distributed generation systems that may be set forth in the regulation;
4. To finance broadcasting, research and development activities related to the possible applications of this kind of technologies. Priority shall be given to such research enterprises that are located in less relative development areas of the country.

Section 22.- As regards operations related to the FODIS, the FODIS and the trustee, as well as the debits and/or credits corresponding to the accounts used by the public trust funds that may be created within the framework of the FODIS, and the trustee when performing operations related to such accounts shall be exempt from all existing national taxes, rates and contributions and to be implemented in the future. Such exemption includes the taxes provided in Laws 20,628; 25,063; 25,413; and 23,349 and other internal taxes that may correspond.

Section 23.- The Enforcement Authority shall be empowered to issue regulatory, clarifying, amending and complementary rules that may be relevant for the management of the Fund, and to apply the penalties that may correspond, as well as to replace the trustee.

Section 24.- To empower the Enforcement Authority to sign the trust agreement with the trustee.

CHAPTER VI

*Promotional Benefits*

Section 25.- The Enforcement Authority shall set forth the tools, incentives and benefits so as to promote the renewable electricity distributed generation, which shall be applied by means of the FODIS. The user-generators shall duly prove the fulfillment of the requirementes set forth in this Law and its regulation.

The identification of such tools, incentives and benefis shall be carried out considering, among other issues, the following criteria: the cost of the generated and/or feed-in energy, the installed capacity, the market value of the equipment, the differenciation by technologies, the time zones and/or regional conditions.

Section 26.- The Fund shall set forth the promotional benefits in the form of a discount on the capital cost for the acquisition of renewable distributed generation systems. Such discount shall be set forth according to the capacity to be installed pursuant to the regulation of this Law for each technology. At least one third of the amount allocated to the granting of tools, incentives and benefits that may be established shall be aimed at one-family residential household enterprises. The remaining amount shall be used in the following fiscal period for other purposes.

Section 27.- The Fund shall implement an additional incentive price for the renewable generated energy, regardless of the feed-in tariff set forth in this Law. Such incentive price shall be set for a limited time, and its value shall be adjusted according to the provisions that may be established in the regulation and complementary rules, based on the avoided costs for the electrical system as a whole. This incentive price shall be proportionally set for all the contributors to the system, according to the generated energy, and may not represent more than twenty percent (20 %) of the resources of the Fund.

Section 28.- The Enforcement Authority may implement a promotional benefit in the form of a tax credit certificate to be applicable to the payment of national taxes for a certain value to be established by means of the regulation of this Law, and considering the criteria mentioned in the previous article. The total amount of the tax credit certificate may not be greater, in any case, than fifty percent (50 %) of the cost of fossil fuels replaced during the life cycle of the distributed generation system, in accordance with the estimate that the Enforcement Authority may perform.

The tax credit certificate may be nominative and non-transferrable, and it may be applied by the beneficiaries to the payment of all amounts to be paid corresponding to income tax, estimated mínimum income tax, value added tax, internal taxes, as balance and advances amounts under a sworn statement. The collection shall be in charge of the Federal Bureau of Public Revenue.

For the period corresponding to the year of effectivenessof this Law, it is set forth a fiscal share of two hundred million Argentine pesos ($200,000,000) to be allocated to the promotional benefits provided in this section. The benefits shall be allocated in accordance with the procedure that the regulation may set forth for that purpose.

If the fiscal share provided in the previous paragraph is not fully allocated in the periood corresponding to the year of effectiveness of this Law, such share shall shall be automatically transferred to the following period.

Section 29.- The Enforcement Authority shall set forth the differential priority benefits for the acquisition of locally manufactured renewable distributed generation equipment, as long as the latter fulfill with the requirement on inclusion of local added value that the regulation may set forth. In these cases, the benefits shall be established considering the percentage of local added value as the base amount, and shall be at least twenty percent (20 %) higher than the ones set forth by means of the general framework.

Section 30.- The effectiveness of the legal framework is twelve (12) years, as of its regulation, regardless of the credit terms that may be established by the Enforcement Authority, which may be extended for the same term by the National Executive Branch.

Section 31.- The following individuals shall not be granted the tools and promotional benefits that the FODIS provides and which are mentioned in this chapter:

1. Individuals which have been adjudged bankrupt and which were not allowed to continue the commercial activity, pursuant to the provisions set forth in Law 24,522 and its amendments, as appropriate.
2. Defendants in a private prosecution or those individuals against whom a criminal complaint has been filed by the former Tax Administration Department under the former Secretariat of Economy of the former Ministry of Economy and Public Works and Services, or by the Federal Administration of Public Revenue, autonomous entity under the Ministry of Economy and Production, pursuant to Law 24,769 and its amendments, as appropriate. The corresponding prosecutor’s referral of the case to oral trial shall be drafted prior to the effectiveness of this Law. Those defendants in a private prosecution or those individuals against whom a criminal complaint has been filed shall be indicted.
3. Individuals against whom a complaint on charges of ordinary crimes has been filed or defendants in a private prosecution for ordinary crimes related to the failure to observe their tax obligations or third parties tax obligations. The corresponding prosecutor’s referral of the case to oral trial shall be drafted prior to the effectiveness of this Law. Those defendants in a private prosecution for ordinary crimes or those individuals against whom a complaint on charges of ordinary crimes has been filed shall be indicted.
4. Legal entities, including cooperatives, whose partners, managing partners, directors, liquidators, members of the supervisory body, as appropriate, or those who have equivalent positions, against which a complaint on charges of ordinary crimes has been filed or defendants in a private prosecution for ordinary crimes related to the failure to observe its tax obligations or third parties tax obligations. The corresponding prosecutor’s referral of the case to oral trial shall be drafted prior to the effectiveness of this Law. Those defendants in a private prosecution for ordinary crimes or those legal entities against which a complaint on charges of ordinary crimes has been filed shall be indicted.

If, after these individuals and legal entities have received the benefits of these regulations, any of the events mentioned in the previous paragraphs occur, the treatment agreed under such regulations shall expire.

CHAPTER VII

*Legal Framework for the Promotion of National Industry*

Section 32.- To create the Legal Framework for the Promotion of National Industry of Systems, Equipments and Inputs for Renewable Distributed Generation, hereinafter FANSIGED, under the Ministry of Production or the entity that may replace it in the future.

This Legal Framework shall be applicable in the whole territory of the Argentine Republic, and shall be in force for ten (10) years as of the approval of this Law, which shall be extended for the same period by the National Executive Branch.

Section 33.- The activities that the FANSIGED shall promote are the following: research, design, development, investment in capital goods, production, certification and installation services for the renewable energy distributed generation.

Section 34.- The following tools, incentives and benefits are included in the FANSIGED:

1. Tax credit certificate on investment in research and development, design, capital goods, certification for manufacturing companies. Such tax credit certificate shall be nominative and transferrable just once and shall be valid for five (5) years as of its emission. The tax credit certificate shall be applied to the payment of national taxes, for the total amounts to be paid for income tax, estimated mínimum income tax, value added tax, internal taxes, except for those encumbrances allocated to social security, as a balance and advance amounts under a sworn statement. The collection is in charge of the Federal Bureau of Public Revenue, for a certain amount to be established by means of the regulation of this Law. The tax credit certificate shall not be applicable to the payment of previous debts at the time of issuing of such certificate. Positive potencial balances shall not be reimbursed or returned by the National State;
2. Income tax accelerated depreciation, for the acquisition of capital goods for the manufactring of equipment and inputs aimed at renewable energy distributed generation, except for automoviles. Such depreciations shall be estimated as of the fiscal period of authorization of the good, in accordance with the rules set forth in Section 84 of the Law on Income Tax, which text was approved in 1997 and subsequent amendments, under the conditions that the regulation may set forth;
3. Value Added Tax Advance Return for the acquisition of the goods mentioned in subsection b). It shall be credited against other taxes that the Federal Bureau of Public Revenue is in charge of collecting in the term, under the conditions and the guarantees that the regulation of this Law may set forth;
4. Access to financing of the investement with preferential rates. The Enforcement Authority shall make available the financing credit lines called FONAPYME (Productive Investment), FONDEAR Renewable Energies and the investement productive lines promoted by the Ministry of Production or the entity that may replace it in the future. The requirements for the access to the financing credit lines aforementioned shall be those identified in the terms and conditions of such lines;
5. Accesss to the Program of Development of Suppliers, with the purpose of strengthening the abilities of the productive sector, by means of the promotion of investments, the improvement in the companies’ productive management, the increase in the innovative capacity, the technological modernization, with the aim of replacing imports and promote the creation of qualified jobs. The companies which fulfill the criteria of the Program shall access to financial assistance benefit lines with a subsidied rate, technical assistance and non- reimbursable contributions.

The Enforcement Authority shall set the mínimum percentage of national raw material content and inputs enforceable for the beneficiaries of this legal framework. Such percentage shall be never lessser than twenty-five (25 %) percent during the first three (3) years of effectiveness of this Law and than forty (40 %) percent *a posteriori.*

Section 35.- Microenterprise, small enterprises and medium enterprises created in the Argentine Republic which main activity is one of the activities listed in Section 33 of this Law may acceed to this legal framework.

Medium enterprises classified as Section Two according to Law 25,300 and its amendments shall be excluded from the benefits set forth in subsections a), b) and c) of Section 34. Legal entities established pursuant to the corporative laws of the Argentine Nation or foreign corporative laws which shareholder equity is proportionally greater than twenty-five (25 %) percent, whether they are owned by individuals or foreign legal entities, shall be also excluded from said benefits.

Section 36.- The FANSIGED shall feature a annual tax share for the allocation of the tax credit certificate acoording to the national administration general budget law.

For the year of effectivenes of this Law, such tax shall be two hundred million Argentine pesos ($200,000,000) to be allocated to the promotional benefits provided in this chapter. The benefits shall be allocated according to the proceeding that the regulation may set forth for such purpose.

If the tax share set forth in the previous paragraph is not fully allocated during the fiscal period of the effectiveness of this Law, such share shall be automatically transferred to the following period.

Section 37.- The benefits provided within such legal framework shall be granted under the condition of approval of the security and quality estandards set forth in the regulation of this Law. The non-observance of the conditions set forth in this paragraph shall imply the loss of the benefits and the reimbursement of the allocated funds plus the corresponding interest.

CHAPTER VIII

*Penalty System*

Section 38.- The non-observance by the distributor of the terms set forth for the requirements of information and authorization, as well as the terms for the installation of the meter and the connection of the user-generator shall be punished. A compensation for the user-generator shall be applied, according to the penalties set forth by the jurisdictional regulatory entity. The amount of such penalties shall not be lesser than the amount set forth for penalties for delay in the connection of provision to users to the grid.

CHAPTER IX

*Complementary provisions*

Section 39.- To revoke Section 5° of Law 25,019, replaced by Section 14 of law 26,190.

Section 40.- To invite the provinces and the Autonomous City of Buenos Aires to acceded to this Law and to enforce regulatory rules for the application of this Law within the scope of its competence.

Section 41.- To inform the National Executive Branch.