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ENERGY COMMUNITY SECRETARIAT

# 5<sup>TH</sup> VIENNA FORUM ON EUROPEAN ENERGY LAW

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**WORKSHOP ON CURRENT ISSUES OF  
ENERGY LAW FOR SOUTH EAST AND  
EASTERN EUROPE:**

***INVESTORS' PERSPECTIVE ON  
PERMITTING REGULATION (SERBIA)***

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# Intro: Hurdles for Private Investments in the RES Sector in Serbia

- Structural weakness of the sector
- Risks (political, off-takers, technical)
- Deficiencies of the legal framework: regulatory risk ranked first among investors
- “Privatization” of welfare: who benefits from RES?
- Administrative hurdles

# Slow Pace: Deployment of RES in Serbia

- No utility-scale IPPs in Serbia to date
- Less than 100 MW in aggregate built to date (half of which are small HPPs)
- Pipeline of approx. 800 MW of wind projects, none of the large ones under construction to date
- Complex permitting procedures affected development time and cost
- Lagging of secondary legislation: some projects feasibility jeopardized

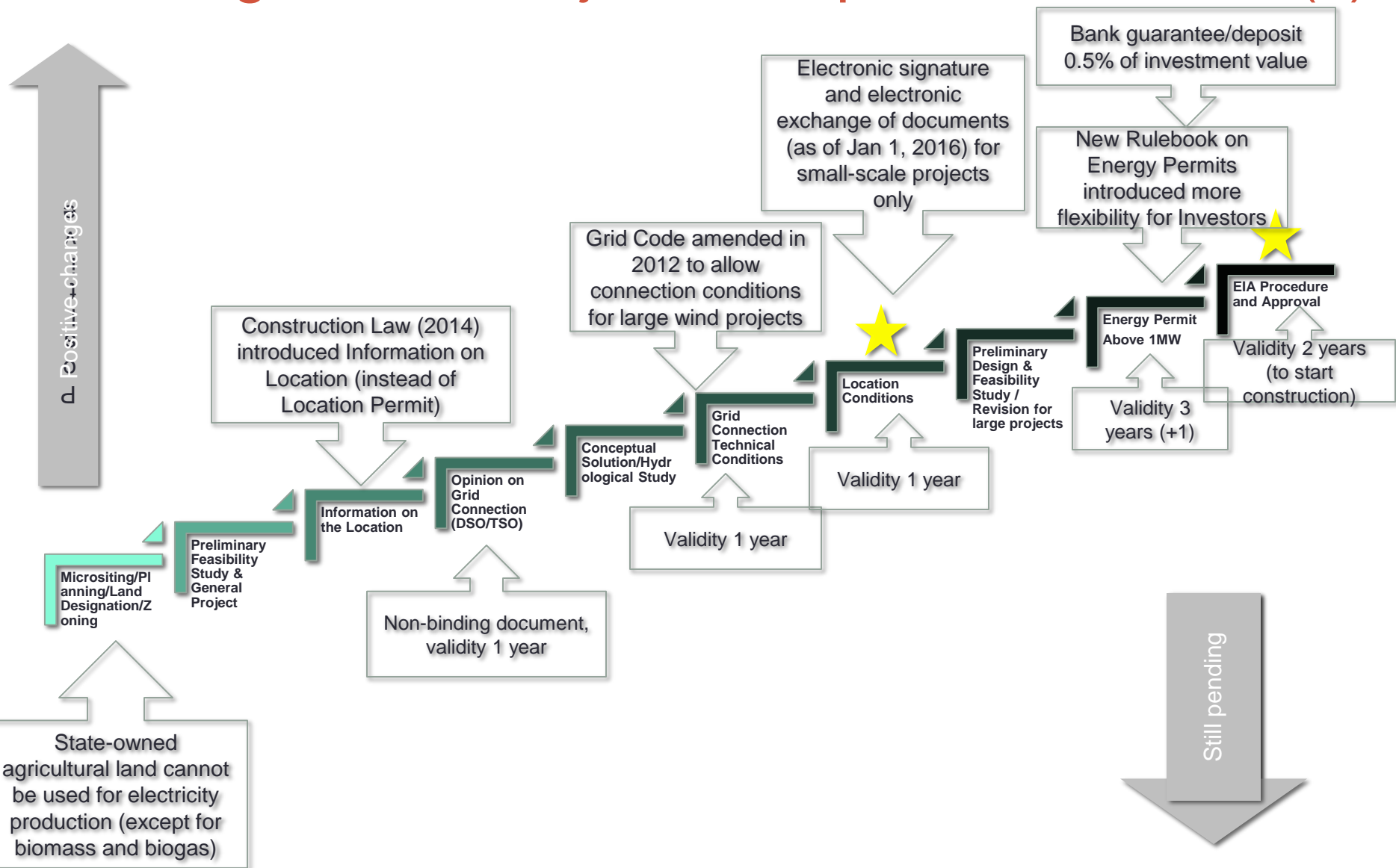
# Challenging Playground for Investors: Permitting of RES Projects when we started..

- Learning curve for both developers and administration:  
Did investors come too early?
- Jurisdiction split between municipalities and governmental agencies/ministries: missing coordinated permitting process
- Procedures drawn-out, confusing and contradictory requirements (e.g. Decree on conditions for delivery and supply of electricity)
- Undefined time frames causing uncertainty and higher development costs to investors

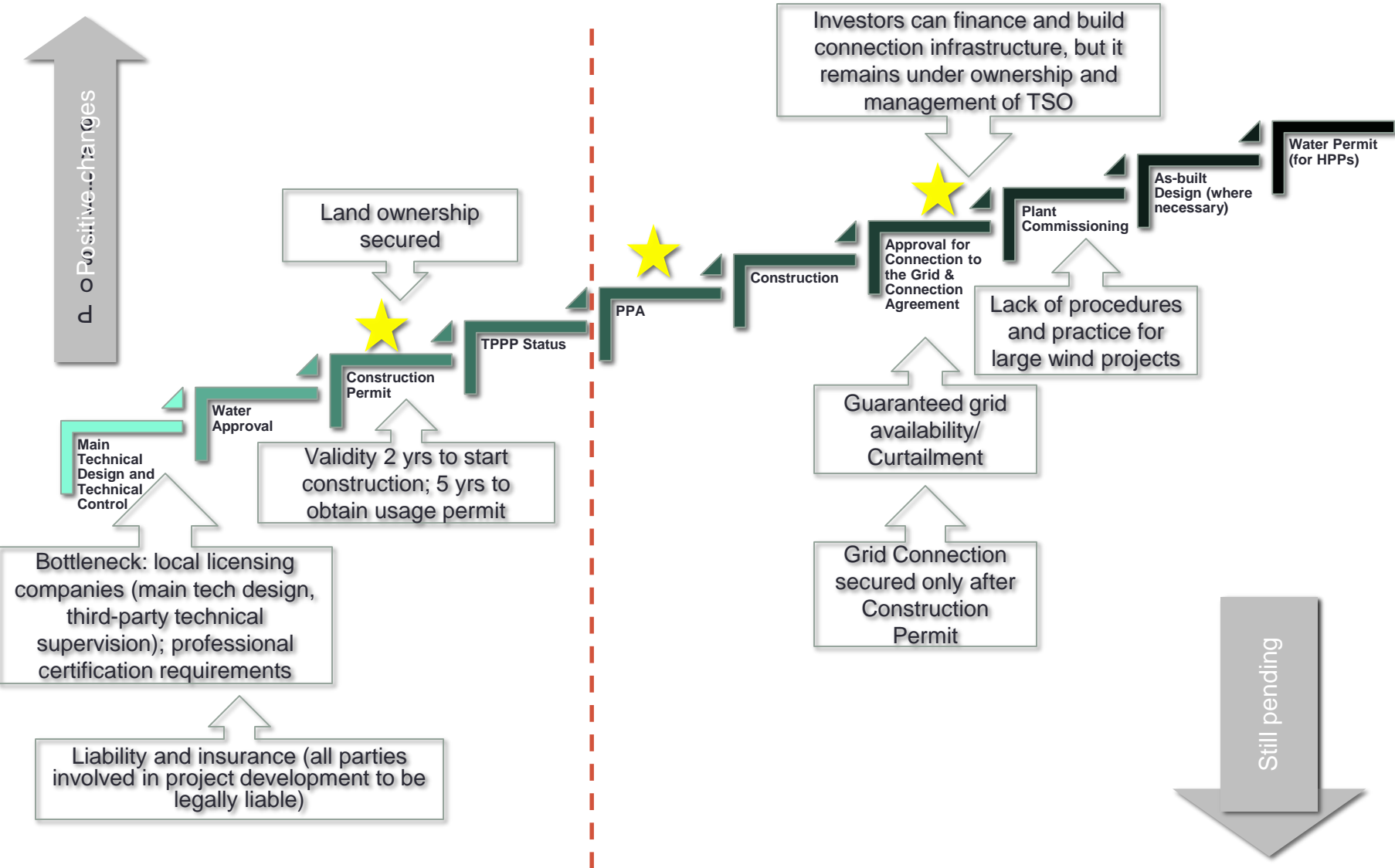
# Permitting of RES Projects: What Changed?

- The majority of regulation governing licensing requirements and permitting procedures updated regularly
  - Energy permits (timing, guarantees)
  - Location and Construction permits
  - Environmental permit (EIA approval) and Water permit
  - Land usage and designation
- Average permitting time for utility-scale projects approx. 2 years (down from 4 years)
- 2014 Law on Planning and Construction: streamlining the construction permitting process, higher efficiency of permitting process (ePermit, OneStopShop)
- Specific permitting requirements defined (site or technology specific; project size; environmental constraints)

# Permitting of RES Projects: Simplified Procedure (1)

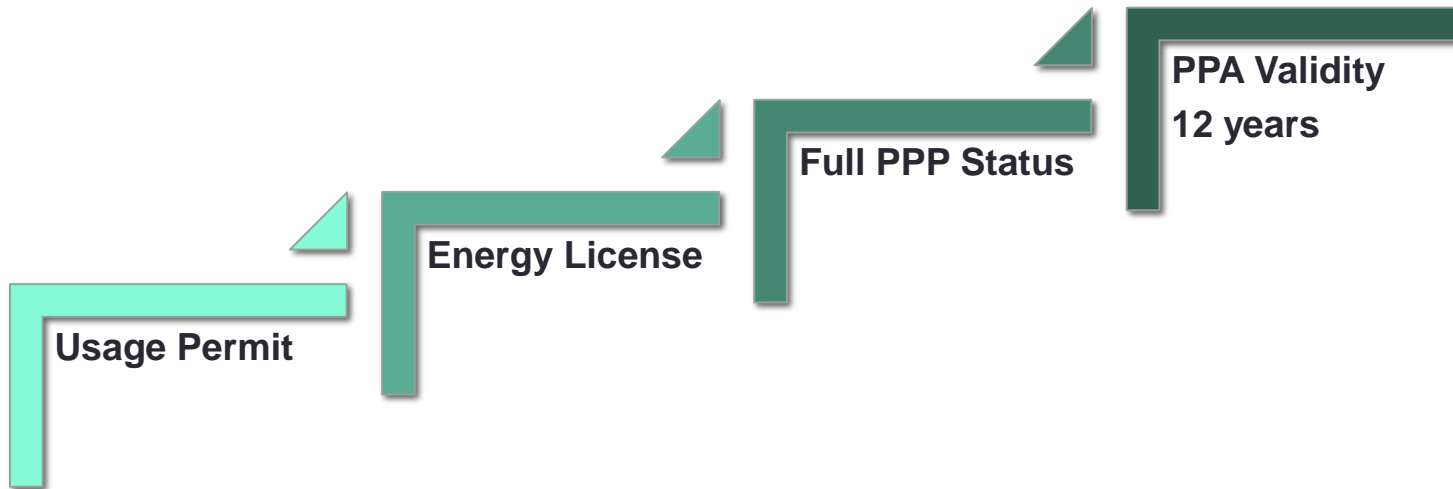


# Permitting of RES projects: Simplified Procedure (2)



# After Construction: Simplified Procedure (3)

for small RES projects only - to date





# Big Milestone: 2014 Energy Law

## *Positive changes:*

- Introduced one-step PPA
- Construction period prolonged to three years; introduced *force majeure* clause during construction
- Defined permitting and construction authority and obligations for connection infrastructure; can be financed and built by private investors, but ultimately remains under the ownership and management of the TSO

## *Pending issues:*

- Transferability of PPA, step-in rights for lenders
- Protection against change in law
- Political force majeure
- Grid constraints (deemed output, curtailment)

# 2016 Set of Decrees – At Last

- More favorable climate for developing/financing RES projects
- Decrees on PPP status and Incentives – *major improvements*:
  - 3 yrs TPPP status duration (1 year for PV); can be extended under specific conditions such as force majeure.
  - In the case of TPPP/PPP status termination, lenders may introduce a new privileged producer within three months (for projects > 30MW).
  - Maximum Annual Effective Operation Time for all types of plants;
  - Excess electricity produced over the “maximum produced electricity” – purchased at 35% of the corresponding FIT;
  - Electricity produced during the TPPP status – purchased at 50% of the corresponding FIT;
  - Subsequent changes in legislation which lead to an increase in producer’s expenses result in corresponding increase of FIT.
- *On the downside*: promissory notes as collaterals provided by the off-taker

# PPA: The Holy Grail for Investors

- From the first draft in 2010 to the 4<sup>th</sup> version presumably bankable – 6 years later

## *Major improvements:*

- No preliminary PPA;
- Transfer of PPA & step-in rights for lenders (> 30 MW only);
- Two possibilities for International arbitration;
- Change in law provisions: an off-taker is obliged to change the price of electricity based on new FIT pursuant to the change-in-law rules;
- Deemed output introduced.

# Instead of Conclusion

While it remains to be seen whether the new regulation is enough for the RES in Serbia to bloom...

What can developers do?

- Advance planning
- Strong project management and technical support
- External (expert) supervision

to reduce development time and costs and improve projects' quality and bankability.

# Thank you for your attention



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