

## VIETNAM ISSUES FORMULA FOR CALCULATING THE TARIFF FOR SOME RENEWABLES PROJECTS THAT MISSED THE FIT

13 OCTOBER 2022 • ARTICLE



On 3 October 2022, the Ministry of Industry and Trade (“MOIT”) issued Circular 15/2022/TT-BCT announcing the electricity generation price range for transitional wind and solar power projects (“Circular 15”). Circular 15 applies to wind power projects that have executed a PPA with Vietnam Electricity (“EVN”) before 1 November 2021 but were not eligible for feed-in-tariffs (FiT) by the end of 30 October 2021 (“transitional wind power projects”) and solar power projects that have executed a PPA with EVN before 1 January 2021 but were not eligible for FiTs by the end of 31 December 2020 (“transitional solar projects” and collectively “transitional projects”)<sup>1</sup>. Based on WFW’s recent meetings with MOIT, Circular 15 will resolve tariff issues for approximately 62 transitional wind power projects with a total capacity of 3,479MW and five transitional solar power projects with a total capacity of 452.62MW. The tariffs for transitional projects calculated in accordance with Circular 15 will apply for the entire lifespan of a project.

**"Circular 15 sets out formulae for EVN to calculate the electricity generation price for a standard power farm (also understood as the “Maximum Price”) for each kind of transitional project."**

Under Circular 15, MOIT makes EVN responsible for collecting data from project sponsors and calculating and proposing the electricity generation price range for transitional projects. Circular 15 provides a specific timeline for EVN to calculate, and Electricity Regulatory Authority of Vietnam (“ERAV”) to appraise, the price range, which is set out at the bottom of this note. However, Circular 15 does not specify the timeline for MOIT’s approval of the price range and how EVN and transitional projects will negotiate the price of each project and PPA amendment after MOIT’s approval.

Circular 15 sets out formulae for EVN to calculate the electricity generation price for a standard power farm (also understood as the “Maximum Price”) for each kind of transitional project. The calculations are set out in full in Circular 15. Some of the key elements of the formulae for calculating Maximum Price include:

- The unit investment cost of a standard wind and solar farm will be calculated based on the approved total investment costs of transitional projects, with reference to relevant data from consultants<sup>2</sup> (without detailed information on said consultants or how they were selected);
- The economic life of the standard wind and solar power farm is 20 years<sup>3</sup>;

- The proportion of O&M costs in the unit investment cost for a standard floating solar farm is 1.5%; a standard ground-mounted solar farm 1.8%; a standard onshore wind farm 2.0%; and for a standard offshore wind farm 1.8%<sup>4</sup>;
- Loans should account for 70% and owner equity for 30% of the total investment capital of a standard wind and solar farm<sup>5</sup>; and
- The average loan repayment period for a standard wind and solar project is 10 years<sup>6</sup>.

The timeline for proposing, appraising and approving the price range is as follows<sup>7</sup>:

- Effective date of Circular 15: 25 November 2022;
- Sponsors to submit FS or technical design to EVN – 15 days from the effective date of Circular 15’s promulgation;
- EVN to calculate price range and submit proposal to ERAV – 45 days from the effective date of Circular 15’s promulgation;
- ERAV to assess the sufficiency and validity of EVN’s proposal – five working days from the date of receiving EVN’s submission;
- ERAV to appraise the price range calculated by EVN – 45 days from the date of receiving EVN’s submission;
- ERAV to seek MOIT’s approval and publication of price range – 10 days from the date of completion of appraisal; and
- MOIT to approve and publicise the price range – no specific timeline.

It is a positive step that Circular 15 has been issued to resolve problems facing transitional projects that have been waiting for a tariff at which to sell electricity to EVN since FiTs have expired, however some concerns remain as to how EVN will implement Circular 15 in practice and we also note that this only applies to transitional projects that have already signed their PPA but were not eligible for FiTs. For solar and wind power projects that have received investor approval but have not executed a PPA with EVN it is expected that MOIT will issue new guidance to calculate and issue an electricity generation price range on an annual basis in accordance with the principles of Circular 57/2014/TT-BCT.

*Hanoi Legal Assistant Quynh Nguyen also contributed to this article.*

[1] Article 1.2(b) of Circular 15/2022/TT-BCT

[2] Article 5.3 and Article 8.3 of Circular 15/2022/TT-BCT

[3] Appendix of Circular 15/2022/TT-BCT

[4] Appendix of Circular 15/2022/TT-BCT

[5] Appendix of Circular 15/2022/TT-BCT

[6] Appendix of Circular 15/2022/TT-BCT

[7] Article 10 of Circular 15/2022/TT-BCT

## KEY CONTACTS



**LINH DOAN**  
PARTNER • HANOI

T: +852 2168 6758

[LDoan@wfw.com](mailto:LDoan@wfw.com)



**MATT LORIMER**  
PARTNER • HANOI

T: +84 24 3938 8401

[mlorimer@wfw.com](mailto:mlorimer@wfw.com)

### DISCLAIMER

Watson Farley & Williams is a sector specialist international law firm with a focus on the energy, infrastructure and transport sectors. With offices in Athens, Bangkok, Dubai, Dusseldorf, Frankfurt, Hamburg, Hanoi, Hong Kong, London, Madrid, Milan, Munich, New York, Paris, Rome, Seoul, Singapore, Sydney and Tokyo our 700+ lawyers work as integrated teams to provide practical, commercially focussed advice to our clients around the world.

All references to 'Watson Farley & Williams', 'WFW' and 'the firm' in this document mean Watson Farley & Williams LLP and/or its affiliated entities. Any reference to a 'partner' means a member of Watson Farley & Williams LLP, or a member, partner, employee or consultant with equivalent standing and qualification in WFW Affiliated Entities. A list of members of Watson Farley & Williams LLP and their professional qualifications is open to inspection on request.

Watson Farley & Williams LLP is a limited liability partnership registered in England and Wales with registered number OC312252. It is authorised and regulated by the Solicitors Regulation Authority and its members are solicitors or registered foreign lawyers.

The information provided in this publication (the "Information") is for general and illustrative purposes only and it is not intended to provide advice whether that advice is financial, legal, accounting, tax or any other type of advice, and should not be relied upon in that regard. While every reasonable effort is made to ensure that the Information provided is accurate at the time of publication, no representation or warranty, express or implied, is made as to the accuracy, timeliness, completeness, validity or currency of the Information and WFW assume no responsibility to you or any third party for the consequences of any errors or omissions. To the maximum extent permitted by law, WFW shall not be liable for indirect or consequential loss or damage, including without limitation any loss or damage whatsoever arising from any use of this publication or the Information.

This publication constitutes attorney advertising.