

VIETNAM ISSUES DRAFT CIRCULAR ON WIND AND SOLAR ELECTRICITY GENERATION PRICING

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On 30 August 2023, Vietnam's Ministry of Industry & Trade ("MOIT") published the draft circular stipulating the method for calculating of the electricity generation price range for wind and solar power plants (the "Draft Circular") for public consultation. The Draft Circular is expected to apply to all wind and solar power plants which have not executed a power purchase agreement ("PPA") with Electricity Vietnam ("EVN") (i.e., projects which are neither eligible for the feed-in-tariffs or the tariff range for transitional projects under Circular 15/2022/TT-BCT).

"The Draft Circular, once finalised and promulgated, will provide more certainty for both existing developers who do not have their PPA for their approved projects and for potential developers considering investing in renewable projects in Vietnam."

The Draft Circular provides key principles for the calculation of the annual electricity price range, which will be the basis for PPA negotiations between power producers and EVN. With the Power Development Master Plan VIII ("PDP VIII") setting the targets of reaching 27,880MW of wind power and 12,836MW of solar power in 2030, the Draft Circular, once finalised and promulgated, will provide more certainty for both existing developers who do not have their PPA for their approved projects and for potential developers considering investing in renewable projects in Vietnam.

PROCEDURE FOR CALCULATION AND APPROVAL

Under the Draft Circular, EVN will be responsible for proposing the parameters and calculating the electricity generation price range for each kind of project (i.e., ground-mounted and floating solar, onshore and offshore wind) in accordance with the stipulated method. Annually, before 1 November, EVN will propose the calculation to the Electricity Regulatory Authority of Vietnam ("ERAV") under MOIT for appraisal. The timeline for appraisal and approval of the electricity generation price range is specified as follows¹:

- within five working days of receiving the proposal from EVN, ERAV will appraise the sufficiency and validity of the proposal. EVN will amend, supplement, or clarify contents of the proposal within 15 working days from receiving request from ERAV (if any);

- within 20 working days of receiving the sufficient and valid proposal from EVN, ERAV will appraise EVN's calculation of the electricity generation price range. In necessary cases, ERAV will collect opinions from the Advisory Council to be established by the MOIT; and
- within 15 working days from the date of appraisal, ERAV will submit the electricity generation price range for the next calendar year to the Minister of the MOIT for approval and publish the approved price range on ERAV's website. In circumstances where the price range for a calendar year has not been approved, the price range of the previous year will be temporarily applied.

CALCULATION METHOD

The Draft Circular sets out the formulae for EVN to calculate the maximum electricity generation price for a standard power plant ("Maximum Price") for each kind of project. The formulae in the Draft Circular are essentially similar to the ones for transitional projects under Circular 15/2022/TT-BCT. The instruction for determination of key elements is specified as follows:

- the unit investment cost will be determined annually based on reference to data from consulting organisations²;
- the average annual electricity output will be determined annually based on reference to data from consulting organisations³. With regards to solar power plant, the average annual electricity output will be determined for each of the northern, middle, and southern regions based on average annual solar radiation⁴. This would likely result in lower average output and higher fixed price for solar farms in the northern region, which aligns with the priority for development of solar power in the northern region in the PDP VIII;
- the economic life will be 20 years for both wind and solar power plants⁵;
- loans should account for 70% and owner equity for 30% of the total investment capital. Of the total loans, foreign loans should account for 20% and domestic loans for 80%. The average loan repayment period is 10 years⁶;
- the interest rate of domestic loan is determined through reference to the interest rate of four Vietnamese commercial banks plus the average service fee of 3.5% per year. The interest rate of foreign loan is determined through the Secured Overnight Financing Rate (SOFR) published by the Federal Reserve Bank of New York (FED) plus the average arrangement fees of 3% per year⁷;
- the rate of return on equity after taxes is 12% per year⁸; and
- the proportion of O&M costs in the unit investment cost will be determined annually based on reference to data from consulting organisations⁹.

For elements determined on annual basis, EVN as the entity in charge, will be responsible for selecting the relevant consulting organisations. For fixed elements such as the ratio of debt to equity, depending on the annual assessment of performance of executed PPAs or opinions from power producers, ERAV may re-calculate such elements and submit to the Minister of the MOIT for approval before 1 October¹⁰. The recognition and clarification of power producers' right to opine with ERAV for re-calculation is a positive development of the Draft Circular to adjust the electricity generation price range to the economic landscape at the time of application.

Hanoi Legal Trainee Quynh Nguyen also contributed to this article.

- [1] Article 10 of the Draft Circular
- [2] Article 5.3 and 8.3 of the Draft Circular
- [3] Article 5.5, 5.6, 8.6 and 8.7 of the Draft Circular
- [4] Article 5.5 of the Draft Circular
- [5] Appendix of the Draft Circular
- [6] Appendix of the Draft Circular
- [7] Article 5.4 and 8.4 of the Draft Circular
- [8] Article 5.4 and 8.4 of the Draft Circular
- [9] Article 6.2 and 9.2 of the Draft Circular
- [10] Article 13.2 of the Draft Circular

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