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RENEWABLE ENERGY IN UKRAINE



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Ukraine passes law on green auctions

On 25 April 2019, the Verkhovna Rada of Ukraine adopted Law No. 2712-VIII *On Amendments to Certain Laws of Ukraine on Ensuring Competitive Conditions for Electricity Production from Renewable Energy Sources* (hereinafter referred to as the “Law”). The Law amends the Laws of Ukraine *On Renewable Energy Sources*, *On the Electricity Market*, *On the Regulation of Urban Development Activities*.

The Law took effect on 22 May 2019.

The need to pass the Law resulted from the far too high feed-in tariff for green electricity. As a result, of the significant burden of feed-in tariffs on the wholesale price, the share of payments from the electricity wholesale market to electricity producers receiving the feed-in tariff was 7.5% in 2017 and 8.2% at the end of 2018. A high feed-in tariff in Ukraine, in particular feed-in tariff for solar power plants, leads to an excessive price burden borne by Ukrainian electricity consumers, which will continue to grow as new power plants are commissioned.

Moreover, the solar power price has dropped significantly in recent years. According to the IRENA report entitled Renewable Power Generation Costs in 2017, one of the main reasons for this decline is the decrease in solar PV module prices by 81% since the end of 2009. The weighted average cost of solar power fell by 73% in 2010-2017, to USD 0.1 per kilowatt-hour (kWh).

Thus, the solar power generation is becoming increasingly competitive compared to electricity generation from conventional sources, even without a state support. The European experience also shows a tendency towards a decrease in the solar power generation promotion.

Therefore, a state support to producers of electricity from renewable energy sources on a competitive basis, namely through the introduction of auctions and tenders, provides optimal support for electricity generation from renewable energy sources and helps to ensure that investors do not receive excessive compensation. For example, consumers should benefit from the reduction in green electricity prices as a result of the auctions introduction.

The Law introduces the following significant changes:

1. Terms of auction participation

With effect from 1 January 2020, the promotion of companies intending to generate electricity from wind or solar energy will only be possible subject to their participation in auctions for the quotas allocation and winning the auction. The capacity requirements for renewable energy facilities to participate in auctions are as follows:

- wind energy facilities with a capacity of more than 5 MW. In this case, the limitation does not apply to facilities with one wind turbine, regardless of the installed capacity of such a wind turbine;
- solar energy facilities (solar power plants) with a capacity of more than 1 MW.

Other business entities intending to generate electricity from renewable energy sources, regardless of the facility's installed capacity and the renewable energy source (except for blast furnace and coke-oven gas, and in case of hydropower use with only micro, mini and small hydro plants), may participate in auctions voluntarily. At the same time, such business entities may not participate in auctions for the quotas allocation for those energy generating facilities, for which a feed-in tariff has been previously established and/or which have been granted support as a result of an auction.

The new support system advantage over the existing feed-in tariff system lies in the following aspects:

- a longer support period (20 years after the renewable energy facility commissioning);
- guaranteed off-take of the electricity generated by the electricity producers at a price that depends on the auction results (auction price).

Auctions will be launched on 1 July 2019 and will be conducted until 31 December 2029. The auctions shall be held twice a year, but not later than 1 April and 1 October.

2. Feed-in tariff duration

The existing feed-in tariff scheme is guaranteed until 2030 and applied to:

- producers, already receiving the feed-in tariff, and economic entities that will construct and commission renewable energy facilities before 1 January 2020 (regardless of the installed capacity and a renewable energy source);
- economic entities which will sign a preliminary power purchase agreement under a feed-in tariff with the guaranteed buyer before 31 December 2019 and will construct and commission the respective facilities within 2 years (for solar power plants) or 3 years (for facilities generating electricity from other renewable energy sources);
- economic entities that will construct renewable energy facilities after 1 January 2020, where the installed capacity is less than the capacity for which auctions are mandatory;
- electricity consumers, including energy cooperatives, having installed energy-generating installations with a capacity of up to 150 KW and selling surplus electricity at a feed-in tariff rate once they use the energy for their own needs. In this case, the feed-in tariff for installations generating electricity from solar energy (except for combined systems) may be established only subject to installing them on buildings and roofs and/or facades structures.

3. Feed-in tariff change

With regard to the feed-in tariff rates for various renewable energy sources, the Law provides for the following amendments:

- in 2020, the feed-in tariff for solar power plants will be reduced by 25%, with the feed-in tariff being reduced by another 2.5% per year over the next three years;
- in 2020, the feed-in tariff for wind energy facilities will be reduced by 10%, followed by a further reduction of 1.5% per year over the next three years. At the same time, the subsequent annual reduction does not apply to wind energy facilities with an installed capacity of 2000 kW and more;
- the feed-in tariff for electricity produced from biogas and biomass will remain unchanged at the level of 2020.

The proposed feed-in tariff reduction is based on calculations made by the National Commission for State Regulation of Energy and Public Utilities and IRENA data on capital expenditure (CapEx) reduction with regard to the solar power plants and wind energy facilities construction.

The legislator also took into account the need to maintain investors' interest in electricity generation from biogas and biomass. Business entities generating or intending to generate electricity from biomass and/or biogas using their energy-generating installations may participate in auctions for the quotas allocation

voluntarily, regardless of the commissioning date of the energy-generating installations or their construction stages.

Moreover, after the reconstruction, technical re-equipment or overhaul of energy-generating installations supported by the feed-in tariff with an increase in installed capacity, the feed-in tariff shall be calculated using the feed-in tariff rate specified by the law on the date of commissioning of such an installation after its reconstruction, which may not be higher than the one used when initially setting the feed-in tariff for the relevant installation.

4. Start of auctions

Auctions will be conducted to identify business entities eligible for support. Auctions will be held through an electronic bidding system in accordance with the procedure for conducting auctions, to be approved by the Cabinet of Ministers of Ukraine within three months after the Law entry into force.

Auctions will be launched on 1 July 2019. The Cabinet of Ministers of Ukraine was commissioned to conduct a pilot auction in 2019 (within six months from the date the Law enters into force).

5. Quota allocated through auctions

A yearly quota (a capacity of renewable energy facilities for the respective year within the limits of which the economic entities will be provided with state support) shall be allocated through auctions. Every year, on 1 December at the latest, the Cabinet of Ministers of Ukraine shall establish yearly quotas for the next 5 years, which should provide market players predictability in planning and implementing renewable energy projects.

The Cabinet of Ministers of Ukraine may, within the general or additional quotas, offer land plots for the renewable energy facilities construction with the specified technical parameters and technical conditions for the grid connection. Such auctions shall be announced and conducted in accordance with the procedure for conducting auctions for the quotas allocation.

A yearly quota is established on the basis of renewable energy development indicators set by Ukraine's international commitments and Ukraine's Energy Strategy, taking into account the generation capacity adequacy and the transmission grid development plan assessment results by the transmission system operator. A yearly quota shall be split into 3 categories: solar power plants, wind energy facilities and facilities generating electricity from other renewable energy sources.

The yearly quota shall be split as follows:

- solar – not less than 15%;
- wind – not less than 15%;
- other renewable energy sources – not less than 15%.

At the same time, while allocating the yearly quota, the Cabinet of Ministers of Ukraine may decide to conduct auctions without splitting quotas by specific renewable energy sources (technology-neutral auctions).

If the quota portion of a certain type of renewable energy sources is not allocated during auction (totally or partially), the Cabinet of Ministers of Ukraine can decide to transfer it to another category of renewable energy sources for allocation at the next auction.

There are special rules during the initial period after the auctions introduction. The yearly quota will be allocated for the first time for 2020.

For 2020-2022, the yearly quota will be split as follows:

- solar – not less than 30%;
- wind – not less than 30%;
- other renewable energy sources – not less than 15%.

A guaranteed buyer is responsible for organizing and conducting the auctions.

6. Competition protection

To protect competition in auctions:

- the capacity for which the auction participants are granted support may not exceed 80% of the total capacity proposed by all the auction participants for the quotas allocation with regard to the relevant type of renewable energy technologies;
- an auction participant, individually or jointly with other participants with whom they have the same ultimate beneficial owner, may be awarded with no more than 25% of the yearly quota;
- the procedure for conducting auctions should provide for a mechanism of protecting competition in the event that during the auction it is established that competition is insufficient.

7. Bank guarantee to participate in the auction

To ensure a fair competition among bidders, the Law prescribes that bidders have to submit an irrevocable bank guarantee to participate in the auction and an additional bank guarantee on top in the case of winning the action as a performance bond to secure the obligations under the contract concluded with the guaranteed buyer.

The bank guarantee amount to participate in the auction shall be EUR 5 per 1 KW of the facility capacity, for which the business entity intends to obtain support. In this case, the facility capacity, for which the business entity intends to obtain support, may not exceed the facility capacity to be connected to the grid in accordance with the connection agreement.

An additional bank guarantee shall be EUR 15 per 1 KW of capacity, in relation to which the auction winner guarantees the performance of the obligations to the guaranteed buyer.

8. The auction winner

The auction winner is a bidder who has bid the lowest price for electricity at which this bidder is ready to generate the electricity from renewable energy sources and to feed it into the electricity grid (auction price).

At the same time, the Law provides for the auction price ceiling at the level of the feed-in tariff set by the law for renewable energy facilities of the relevant category.

The auction price shall be converted into EUR as of the auction date at the official exchange rate of the National Bank of Ukraine on the given date.

Furthermore, the Law provides that the premium for the use of equipment of the Ukrainian origin applies both to the feed-in tariff and to the auction price. Such a premium shall be credited in cash by the guaranteed buyer on a monthly basis when calculating the price of the guaranteed buyer's service for ensuring an increase in electricity production from renewable energy sources.

9. Timeframes for the winner to commission a renewable energy facility

The auction winner undertakes to construct and commission the renewable energy facility within 2 years (for solar power plants) or 3 years (for facilities generating electricity from other renewable energy sources) after signing the contract concluded on the basis of the auction results.

If the renewable energy facility is not commissioned within the specified timeframe and fails to feed electricity into the power grid, the contract concluded on the basis of the auction results shall be deemed invalid and the obligations under the irrevocable bank guarantee shall be performed in favour of the guaranteed buyer.

The Law also provides for the possibility of extending the term of commissioning renewable energy facilities by up to 1 year, subject to providing an additional irrevocable bank guarantee in the amount of EUR 30 per kW.

10. Validity of new technical conditions for renewable energy facilities

The technical conditions for renewable energy facilities shall have the following validity periods:

- for solar power plants – not more than two years after the date of issue, regardless of the change of the principal;
- for facilities generating electricity from other renewable energy sources – not more than three years after the date of issue, regardless of the change of the principal.

Provided the principal is a business entity awarded with the state support through an auction, the technical conditions for a renewable energy facility granted to this business entity shall be valid for the duration of the obligation to construct and commission the respective renewable energy facility.

11. Validity of already granted technical conditions

The technical conditions for renewable energy facilities issued before the Law entry into force shall be valid:

- for solar power plants – not more than two years after the Law entry into force;
- for facilities generating electricity from other renewable energy sources – not more than three years after the Law entry into force.

The technical conditions for the renewable energy facility granted to an entity, having obtained support as a result of an auction, shall be valid for the term of performance of obligations for the renewable energy facility construction and commissioning.

The technical conditions and grid connection agreements granted/concluded before the Law entry into force shall be brought into conformity with the Law.

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