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On 1 July 2019, Resolution of the National Commission for State Regulation of Energy and Public Utilities of Ukraine (NKREKP) No. 641 On the Approval of the Regulatory Acts Governing the Guaranteed Buyer's Activities and the Electricity Offtake under the Feed-in Tariff dated back to 26 April 2019 came into force.

In particular, the following documents were approved by the Resolution:

- the Procedure for the Power Purchase under the Feed-in Tariff;
- the Model Power Purchase Agreement under the Feed-in Tariff between the Guaranteed Buyer and the economic entity producing electricity from renewable energy sources.

The Procedure for the Power Purchase under the Feed-in Tariff has the following key provisions:

#### **1. The Resolution introduced new terms and definitions:**

- a renewable energy producer under the feed-in tariff means any economic entity producing electricity from renewable energy sources and selling electricity to the guaranteed buyer at the feed-in tariff in accordance with the agreement concluded between them;
- a candidate for a producer under the feed-in tariff means any economic entity intending to produce electricity from renewable energy sources and to sell electricity to the guaranteed buyer at the feed-in tariff.

That is, the difference between the two terms lies in the conclusion of an agreement with the guaranteed buyer – whether it has already been concluded or not.

#### **2. The procedure of concluding power purchase agreements under the feed-in tariff has been established.**

In order to conclude an agreement with the guaranteed buyer, the candidate for whom the feed-in tariff was set shall submit to the guaranteed buyer the relevant application and copies of the constitutional documents and documents certifying the powers of the director or another authorized representative.

If the feed-in tariff has not yet been obtained, the applicant must additionally submit copies of the following documents:

- documents certifying the title to the land plot or the right to use the land plot, or the superficies agreement;
- a registered declaration of construction works commencement or a permit for the construction works performance;
- a signed grid connection agreement.

The power purchase agreement having been signed, the guaranteed buyer shall register a candidate in the Register of producers under the feed-in tariff. The

Register shall be available at the website of the guaranteed buyer and contain the market participant's name and identification details, information on the commencement date of the power purchase agreement under the feed-in tariff and the current feed-in tariff rate.

In case the energy facility is not commissioned within three years from the date of registration of the respective declaration of construction works commencement or receipt of the permit for the construction works performance, the concluded agreement shall terminate.

The power purchase agreement shall be concluded for the full term of the feed-in tariff.

**3. The procedure of concluding agreements on services on the increase of electricity generation from renewable energy sources has been established.**

Such agreements shall be concluded between the universal services provider or the guaranteed buyer and the electricity transmission system operator.

The necessity to conclude agreements on services on the increase of electricity generation from renewable energy sources is due to the fact that the legislation imposes a special duty on the above mentioned entities to ensure an increase in the share of electricity generation from renewable energy sources.

**4. The procedure of forecasting the electricity offtake volumes by producers under the feed-in tariff has been established.**

Forecasting is based on the daily hour-by-hour charts of electricity offtake provided by the producers to the guaranteed buyer, broken down by technology, rates/generation types/renewable energy source and by geographic region.

Such charts need to be provided for the guaranteed buyer to determine the total trading volume of electricity on the day-ahead and intraday electricity market. Forecasting plays an important role in balancing the market and maintaining the balance between electricity demand and supply.

**5. The procedure for the electricity purchase by the guaranteed buyer from producers, the feed-in tariff was set for, has been established.**

In order to be able to sell power at the feed-in tariff prices, the producer must:

- become an electricity market participant,
- enter into a bilateral power purchase agreement with the guaranteed buyer under the feed-in tariff,
- join the special balancing group of feed-in tariff electricity producers based on the agreement entered into with the guaranteed buyer,
- sell electricity to the guaranteed buyer only.

The Resolution also established the rules governing the functioning of the balancing group of producers under the feed-in tariff. The guaranteed buyer and the producers under the feed-in tariff only may become participants in the balancing group.

Moreover, the Resolution provides for sanctions for violation of the balancing group participant's obligations in the form of reimbursing the guaranteed buyer for a certain share of the imbalance settlement costs. In case the producer under the feed-in tariff fails to compensate for the imbalance, it shall lose its membership in the balancing group.

**6. The procedure of calculating payments and execution thereof by the guaranteed buyer to the producers has been established.**

This procedure includes:

- by the 15th day of the month, the guaranteed buyer shall have paid for the first 10 days of the month. Payments shall be made taking into account producer's prepayments and outstanding debts;
- by the 25th day of the month, the guaranteed buyer shall pay for the first 20 days of the month;
- the guaranteed buyer shall, within the first three business days of the following month, provide the producer with the acts of electricity sale and purchase;
- the guaranteed buyer shall, within two business days after receiving the signed acts from the producer, make the final calculation for the delivery month.

**7. The procedure of replacing a party to existing agreements with the guaranteed buyer has been established.**

Since before the creation of the guaranteed buyer as a separate legal entity its obligations were performed by the Guaranteed Buyer branch of Energorynok, now there is a need to replace the party to the respective obligation.

In order to replace a party, the producers need:

- to submit to the guaranteed buyer an application to conclude an additional agreement;
- the application shall be accompanied by supporting documents and the application itself shall be submitted in accordance with the procedure established for new agreements.

The guaranteed buyer shall, within two business days, suggest Energorynok entering into an agreement on the party replacement.

Energorynok must, within 10 business days, provide the producer with the agreement on the party replacement signed by Energorynok.

In this case, the essential conditions of the agreement on the party replacement are as follows:

- Energorynok cannot be held liable for any obligations owed by the guaranteed buyer to the economic entities;
- Energorynok and the guaranteed buyer cannot be held liable for any obligations owed by the economic entity to the creditors and investors of such an economic entity.