

Renewable energy in Ukraine: bill on green auctions adopted at first reading

On 20 December 2018, the Verkhovna Rada of Ukraine adopted at first reading revised bill No. 8449-d On Amendments to Certain Laws of Ukraine on Ensuring Competitive Conditions for Electricity Production from Renewable Energy Sources. The bill (hereinafter also referred to as the "Law") amends the Laws of Ukraine On Renewable Energy Sources, On the Electricity Market, On the Regulation of Urban Development Activities.

The need to pass the bill 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 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).

That is, 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 promotion of solar power generation.

Therefore, a state support to electricity producers 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 introduction of auctions.

The bill introduces the following significant changes:

1. Terms of participation in auctions

With effect from 1 January 2020, the promotion of companies constructing renewable energy facilities with a certain capacity will only be possible subject to their participation in auctions for the allocation of quotas and their winning the auction. The capacity requirements for renewable energy facilities to participate in auctions are as follows:

- in 2020 – wind energy facilities with a capacity of more than 20 MW and facilities generating electricity from other renewable sources with a capacity exceeding 10 MW;
- in 2021 and 2022 – wind energy facilities with a capacity of more than 20 MW

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- and facilities generating electricity from other renewable sources with a capacity exceeding 5 MW;
- from 2023 – all wind energy facilities with a capacity of more than 3 MW (except those with one wind turbine) and facilities generating electricity from other renewable sources with a capacity exceeding 1 MW.

The advantage of the new support system 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 shall be held twice a year, but no later than 1 April and 1 October. The auctions will be conducted until 31 December 2029.

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 renewable energy source);
- economic entities which will sign a preliminary power purchase agreement under a feed-in tariff with the Energoynok state-owned company 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 legally authorized to install energy-generating installations with a capacity of up to 500 KW on buildings and structures roofs or facades and to sell surplus electricity at a feed-in tariff rate once they use the energy for their own needs.

3. Reduction of the feed-in tariff

With regard to the feed-in tariff rates for various renewable energy sources, the bill 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 (the current law, however, provides for a 10% feed-in tariff reduction in 2020);
- 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 (the current law, however, provides for a 10% feed-in tariff reduction in 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

construction of solar power plants and wind energy facilities.

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 entry into force of the Law.

The first auctions will be held in 2020 for the allocation of the 2020 quota. 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).

The yearly quota for the next 5 years shall have been adopted by the Cabinet of Ministers of Ukraine by 1 December 2019.

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.

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 results of the assessment by the transmission system operator of the adequacy of generation capacity and the transmission grid development plan. A yearly quota shall be split into 3 categories: solar power plants, wind energy facilities and facilities generating electricity from other renewable energy sources.

A guaranteed buyer is responsible for organizing and conducting the auctions. Currently, a separate unit of the Energoynok State Enterprise – Guaranteed Buyer branch – acts in the capacity of the guaranteed buyer. The main task of the branch is to create conditions for the establishment of a state-owned company to act as a guaranteed buyer in the new electricity market.

6. Competition protection

To protect competition in auctions:

- an auction participant, separately or together 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 of conducting auctions should provide for a mechanism of protecting competition in the event that it is established during the auction that competition is insufficient.

7. Bank guarantee to participate in the auction

To ensure a fair competition among bidders, the bill 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 amount of the bank guarantee to participate in the auction shall be EUR 5,000 per 1 MW of capacity, in the distribution of which the business entity intends to participate. An additional bank guarantee shall be EUR 10,000 per 1 MW of capacity, in relation to which the auction winner guarantees the performance of their 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 bill provides for the auction price ceiling at the level of the feed-in tariff set by law for renewable energy facilities of the relevant category.

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

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 does not 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 favor of the guaranteed buyer.

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 – no 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 – no more than three years after the date of issue, regardless of the change of the principal.

In the event that 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

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The technical conditions for renewable energy facilities issued more than 2 years before the entry into force of the Law shall be valid:

- for solar power plants – no more than one year after the entry into force of the Law;
- for facilities generating electricity from other renewable energy sources – no more than two years after the entry into force of the Law.

The technical conditions granted more than 2 years before the entry into force of the Law shall become invalid if, at the time of the entry into force of the Law, the economic entity concerned cannot provide a registered declaration of commencement of construction works or a permit for the performance of construction works for the respective renewable energy facility.

The technical conditions issued less than two years before the entry into force of the Law shall be valid:

- for solar power plants – no more than two years after the entry into force of the Law;
- for facilities generating electricity from other renewable energy sources – no more than three years after the entry into force of the Law.

It should be noted that the bill was only adopted at first reading. Amendments may be made to it before its final adoption.