

# Vietnam's further evolving regulations and policies on energy

October and November 2022 have been dynamic months for the energy sector in Vietnam, with the following important developments:

1. On 11 November 2022, the Ministry of Industry and Trade ("MOIT") submitted its amended proposal 7194/TTr-BCT to the Prime Minister on the proposed power master plan ("PDP8") for the period 2021-2030, with a vision to 2050.
2. On 28 October 2022, the State Auditor issued its Official Letter 641/KTNN-TH ("OL 641") to the MOIT on the findings of its audit of the MOIT.
3. On 3 October 2022, the MOIT issued Circular 15/2022/TT-BCT ("Circular 15") regulating the mechanism to calculate the ranges of generating electricity tariff ("Tariff Ranges") for transitional wind and solar power plants ("Transitional Power Plants"), which will take effect on 25 November 2022.

Below is a summary of important contents.

## Transitional Power Plants - Solar

The proposed PDP8 generally does not intend to add new solar power projects until 2030. According to the proposed PDP8, the following transitional solar power projects are permitted to continue to be developed and achieve commercial operation before 2030:

- 6 projects which have been completed but are awaiting the new tariff regime (total 452.62MW); and
- 5 projects which are under development (total 273.4MW);

The following solar power projects are not permitted to continue before 2030 or are cancelled:

- 12 projects which have been granted investment in-principal approvals but have not obtained feasibility study appraisals nor land lease decisions (1,634.4MW);
- 27 projects for which investors have not been appointed (4,136.25MW); and
- 3 projects of which investors have officially withdrawn (total 60MW).

## Tariff Ranges for Transitional Power Plants

Under Circular 15, Transitional Power Plants include the followings:

- i. solar power plants the PPAs of which were executed with EVN before 1 January 2021 but which did not achieve commercial operation in time to be eligible for the incentive FiTs under Decision No. 13/2020/QĐ-TTg; and
- ii. wind power plants the PPAs of which were executed with EVN before 1 November 2021 but which did not achieve commercial operation in time to be eligible for the incentive FiTs under Decision No. 39/2018/QĐ-TTg.

Circular 15 does not apply to rooftop solar.

According to Circular 15, the Tariff Ranges of the Transitional Power Plants is a range of values from a minimum value of 0VND/kWh to the ceiling tariff corresponding to each type of the Transitional Power Plants. The Tariff Ranges would be determined in VND, which would not be adjusted with fluctuations of the exchange rate. A “standard power plant” is used to provide a standardised set of data to calculate the ceiling tariff in the Tariff Range for each technology. A “standard power plant” is a power plant having installed capacity of 50MWp (for solar power) or 50MW (for wind power).

In October 2022, EVNEPTC as authorized by EVN dispatched requests to 293 project investors who have signed PPAs with EVN, asking for early provision of required data and information for the purpose of computation of the Tariff Ranges.

### Rooftop Solar

The total rooftop solar capacity which is in commercial operation as at the end of 2020 is 7,755MW (with PPAs signed with EVN). According to the proposed PDP8, enterprises and individuals are encouraged to develop rooftop solar for self-consumption, but not to sell onto the national grids. Therefore, according to

the draft PDP8, EVN will no longer purchase rooftop solar electricity and the rooftop solar capacity (purchased by EVN) will be maintained at the same level of 7,755MW until at least 2030.

On 28 October 2022, the State Auditor issued OL 641/KTNN-TH to the MOIT on the findings of its audit of the MOIT. Among others, the State Auditor refers to Official Letter 7088/BCT-DL issued by the MOIT on 22 September 2020. The State Auditor concluded that it contradicts the laws for Official Letter 7088/BCT-DL to guide that it is acceptable for investors to develop multiple 1MW rooftop solar systems on the same parcel of land or rooftop and that each such rooftop solar system may enter into a separate PPA and is eligible for exemption of the electricity operation license. The State Auditor concluded that the above guidance would enable investors to divide their solar power project into multiple 1MW systems to avoid master plan approvals and the electricity operation license requirements. The State Auditor's conclusion will likely lead to further policy developments with respect to rooftop solar systems which previously signed PPAs with EVN, requiring continued monitoring.

### Wind Power

According to the proposed PDP8, wind power is prioritized and will be increased from the current operating capacity of 4,126MW (out of a total capacity of 8,171.48MW of wind power projects which have signed PPAs with EVN) to 21,480MW for onshore wind and 7,000MW for offshore wind (4,000MW in the North and 3,000MW in the South of Vietnam).

### LNG-to-power

The proposed PDP8 only adds 5 new LNG-to-power projects with a total capacity of 6,600MW, all located in the North of Vietnam. These include 3 coal-fired power projects being converted to LNG-to-power projects with a total capacity of 3,600MW. Accordingly, until 2030, the total capacity of generation out of imported LNG will be 24,500MW.

FOR MORE INFORMATION PLEASE CONTACT:



Duyen Ha Vo  
Partner  
Ho Chi Minh City  
(84-28) 3827 7300  
duyen@vilaf.com.vn

Thuan Mai  
Senior Associate  
Ho Chi Minh City  
(84-28) 3827 7300  
thuan.mai@vilaf.com.vn

Nhu Le  
Associate  
Ho Chi Minh City  
(84-28) 3827 7300  
quynhnhu.le@vilaf.com.vn

VILAF cares about its clients. This client alert has been prepared for updating clients on recent legal development in Vietnam. The information presented in this client alert is not legal advice, is not to be acted on as such, may not be current and is subject to change without notice