



The Apex Law on Electricity Sector

On 30 November 2024, the 15th National Assembly of Vietnam, at its 8th session, passed the Law on Electricity (amended) [Luật Điện lực (sửa đổi)] ("**LOEC 2024**") to address the emerging prospects of the power sector, effective 1 February 2025 ("**Effective Date**").

The LOEC 2024 provides high level guidance to govern the electricity sector and enables the government to detail further with specific guiding regulations, Ministry of Industry and Trade (MoIT) being the direct concerned ministry handling the electricity portfolio for the country is tasked to further refine policies on this sector while ensuring energy security. Energy investment projects shall also need to follow several other legislations w.r.t. their specific projects and relevant regimes such as, Independent Power Producer (IPP) model shall be primarily governed by the Law on Investment 2020, whereas, Public-Private Partnerships (PPP) shall be implemented in line with the Law on PPP 2020 and various other laws related to land, environment, construction, bidding etc.

Promoting international cooperation, restarting Nuclear Power, guiding offshore wind sector while blending with the existing guiding regulations when absorbing traits from its predecessor, below are some notable points from LOEC 2024:

Elongated Scope - Prevailing Nature

Regulating electricity development planning, investment in construction of electricity projects; development of renewable energy and new energy electricity; electricity operation licenses; competitive electricity market, electricity trading activities; regulation and operation of the national electricity system; protection of electricity works and safety in the electricity sector; responsibilities, rights and obligations of agencies, organizations and individuals in electricity activities and use; state management of electricity.

Further, LOEC 2024 shall prevail in case of any conflict among regulations on the same matter.

Key Definitions

- a. Avoided cost tariffs: prices calculated based on the avoided costs of the national power system when one 01 kWh of small renewable energy power plants is transmitted to the national grid.
- b. Avoided cost: cost of producing 01 kWh of the highest cost generators in the national power system and can be avoided if the electricity buyer purchases 01 kWh from 01 small renewable energy power plant instead.
- c. Ancillary services: technical services necessary to maintain the stable and reliable operation of the national power system, including frequency adjustment, quick start, must-run operation, voltage adjustment, black start and other related technical services as prescribed by the MoIT.
- d. Cross-subsidy of electricity price: a mechanism for determining retail electricity prices for each group of electricity customers to apply a unified retail electricity price list.
- e. New energy: electricity generated from Hydrogen (green) / Ammonia (green), produced from renewable energy sources as stated (h) below.
- f. Power works: a combination of means, machinery, equipment, and construction structures that directly serve the activities of power generation, power transmission, power distribution, power system dispatch, electricity market transaction management, electricity trading, and power works protection systems.
- g. Power project: an investment project as prescribed by law, including a set of proposals on capital use to carry out investment, construction, renovation and business activities of power works in a specific area, region and within a specified period of time. A power source project is an investment project to build a power plant and a power grid synchronously connected to the national power system (if any).
- h. Renewable energy: electricity produced from one or more of the primary energy sources - Solar energy; Wind energy; Ocean energy, including tides, waves, and ocean currents; Geothermal energy (also Hydrogen / Ammonia sources). Further, Hydro power; Biomass energy includes biofuels and other forms of energy derived from plants; Waste-to-energy, business and daily activities, except for waste from production and business processes using fossil fuels and waste identified as hazardous according to regulations of law on environmental protection; Other forms of renewable energy as prescribed by law.
- i. Self-produced and self-consumed: electricity produced and consumed at the location of electricity use by an organization or individual to primarily serve the needs of that organization or individual. (it is further promoted to be coupled with BESS)
- j. Voltage levels (nominal): Low voltage level up to 01 kV; Medium voltage level above 01 kV to 35 kV; High voltage level above 35 kV to 220 kV; Ultra high voltage level above 220 kV.

Planning

Projects to be put into operation in two phases: (1) within the 10-years; and the next 5-years (vision) period.

State Monopoly – Private Transmission

State maintains monopoly on: a) National power system dispatch; b) Investing in the construction and operation of Nuclear Power plant projects, multi-purpose strategic hydropower plants, and important transmission grids from 220 kV voltage level or higher; c) Operation of State-invested national transmission grid;

Private investors can invest and operate transmission grid.

Exclusive Chapter on Renewable and New Energy

In line with the Power Development Plan – VIII of Vietnam and its current Implementation Plan (under revision process).

Classification among Offshore and Nearshore wind projects

Offshore wind power projects include all wind turbines built in Vietnam's sea and located beyond the average low water line of the mainland towards the sea over years. Including:

- a. Nearshore wind power projects having all turbines built in the sea area of six (06) nautical miles from the average lowest water level line of the mainland over years towards the sea;
- b. Offshore wind power projects having all turbines built six (06) nautical miles offshore from the average low water line of the mainland over years towards the sea.

Investment Planning for Offshore Wind – Priority Order

Offshore wind power projects include all wind turbines built in Vietnam's sea and located beyond the average low water line of the mainland towards the sea over years. Including:

- a. Electricity generation project to supply electricity to the national power system;
- b. Self-produced and self-consumed electricity projects or electricity projects for the production of green hydrogen, green ammonia and other needs to serve domestic needs;
- c. Project to produce electricity for export and produce green hydrogen and green ammonia for export

Offshore Wind Survey

Enterprise(s) with 100% of charter capital held by the State shall handle the survey, unless otherwise prescribed by the government.

Reinstating Project Site - Onus on the Investor

Construction works of renewable energy and new energy projects must be dismantled after ceasing operations in the following cases:

- a. When the term of use expires according to the provisions of the law on construction, if not extended.
- b. When the term of operation expires according to the provisions of the law on investment if not extended;
- c. When there is a difference in the time limit specified in (a) and (b) above, the dismantling after the termination of operations shall be carried out according to the condition occurring first.

Solar and wind power plant shall be dismantled by the project owner at its cost.

Futures Contract and Purchase and Sale Contract

Futures contract key contents:

- a. Electricity buyer and the seller to negotiate and decide on the electricity output and prices;
- b. Spot market price to be the reference price;
- c. Difference between the electricity purchase and sale price and the reference price for the committed output to be paid by the electricity buyer and the seller.

Such contracts are standardized and listed for trading on the electricity futures market.

Power purchase or sale option contract contents:

- a. The rights in the contract of electricity purchase or sale option can be the option to buy or the right to sell, determined on the basis of agreement and consensus between the option buyer and the option seller;
- b. Option buyer and the option seller to negotiate and decide on the electricity output, price and term of such contract;
- c. Exercising the option remains an option with the option buyer for the contract term;
- d. Option seller shall sell the electricity output at the contracted price at the exercise of the option by the buyer for purchase or purchase the electricity output at the said price at the exercise of the right to sell by the option buyer;
- e. Supply and demand shall determine the purchase price or sale options at the futures electricity market.

Direct Power Purchase Mechanism

Electricity sale between large electricity users and power generation units

- a. Via a private grid;
- b. Through a national grid.

Principles

- a. Comply with the provisions of law on planning, law on investment, regulations on granting licenses for electricity activities, electricity trading activities and other relevant provisions of law;
- b. Suitable for the level of competitive electricity market.

Critical Amendments to Aligned Regulations

1. Law on Construction 2014 (as amended)

Point a, Clause 2, Article 52 as follows:

- a. *National importance projects, group A projects using public investment capital; PPP projects according to the provisions of the law on investment under the public-private partnership method; projects under the authority of the National Assembly and the Prime Minister to approve investment policies according to the provisions of the Investment Law , power projects organizing bidding to select investors according to the provisions of the Electricity Law must prepare a Pre-feasibility Study Report on construction investment;*
- b. *Add point i (1) after point (i) and amend and supplement point k, clause 2, Article 89 as follows:*
“i1) Offshore works belonging to offshore wind power projects have been assigned sea areas by competent authorities to implement the project;
k) Investors in construction works specified in points b, e, g, h, i and i1 of this clause, except for individual houses specified in point i of this clause, are responsible for sending notices of construction commencement time and construction design documents as prescribed to the local state management agency for construction for management.”.

2. Amending and supplementing Clause 1, Article 3 of the Law on Marine and Island Resources and Environment 2015 (as amended)
“1. Marine and island resources include biological and non-biological resources in the seawater mass, seabed, subsoil, sea surface, coastal areas and archipelagos, islands, low-tide elevations, and submerged banks (hereinafter referred to as islands) under the sovereignty, sovereign rights, and national jurisdiction of Vietnam.”.

3. Amend and supplement Section 2 of Appendix No. 02 of Price Law 2023 (as amended):

2	Natural gas pipeline transportation services and storage, regasification, transportation and distribution services of liquefied natural gas for power generation	Ministry of Industry and Trade determines specific prices
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Transitional provisions

1. Investment projects that have been approved and issued bidding documents before the Effective Date shall continue to organize the selection of investors, sign and manage the implementation of contracts in accordance with the provisions of the Law on Electricity 2004 (as amended).
2. For electricity purchase and sale contracts signed before the Effective Date, shall continue to be implemented according to the signed contracts. In case there are other provisions on the level of competitive electricity market according to the provisions of LOEC 2024, the parties must amend and supplement the contract to comply.
3. Electricity units that have been granted electricity operation licenses before the effective date of LOEC 2024 shall continue to perform until its expiration date; in cases where the electricity operation license has been exempted before the Effective Date, the electricity operation license shall continue to be exempted.
4. In case an organization has submitted a valid application for issuance, amendment, or supplement of an electricity operation license to the licensing authority before the Effective Date but has not yet been granted such license, the Law on Electricity 2004 (as amended) shall apply to grant such license. In case an organization requests to for a new license, amend, supplement, reissue, or extend a license in accordance with the provisions of LOEC 2024, the same shall apply.
5. Investment projects to build power grids with voltage levels of 220 kV or lower passing through the administrative boundaries of 02 or more provincial-level administrative units for which the Ministry of Planning and Investment has received valid dossiers requesting approval and adjustment of investment policies before the Effective Date shall continue to be implemented in accordance with the provisions of Investment Law 2020 (as amended).
6. For power grid projects with voltage levels of 220 kV or lower passing through the administrative boundaries of 02 or more provincial-level administrative units that have been approved by the Prime Minister for investment policy before the Effective Date and are now under the authority to approve investment policy of the provincial-level People's Committee as prescribed in Point a, Clause 2, Article 13 of LOEC 2024, the provincial-level People's Committee shall approve adjustments to investment policy.

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