Client Alert

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VIETNAM INTERNATIONAL LAW FIRM

DECREE ON PLANNING, CONSTRUCTION AND BIDDING OF POWER PROJECTS ENACTED

NGOC ANH BUI AND VAIBHAV SAXENA, VILAF

Government of Vietnam issued Decree No. 56/2025 ("**Decree 56**") with effect from March 03, 2025, boosting investment opportunities and guiding the Law on Electricity 2024 on electricity development planning, power network development plan, investment in construction of electricity projects and bidding to select investors for electricity business projects, while supporting digital transformation and data management.

Planning

Power development plan

- Power source capacity and grid voltage determination to include total installed capacity of relevant power sources + storage system on the national power system, excluding hybrid storage systems with renewable energy sources;
- Grid-connected sources with installed capacity of ≥ 50MW;
- Grid-connected sources with installed capacity < 50MW and having voltage level ≥ 220kV;
- Grid with voltage level of ≥ 220kV.

Power supply network development plan

- Grid-connected sources with installed capacity < 50MW and having voltage level ≤ 110kV;
- 110kV voltage grid;
- Estimated total scale of medium voltage grid;
- Sources as per the power development plan above.

Exemption from planning inclusions

1. No national grid impact sources include:
    - Off-grid sources in mountainous, border and island regions;
    - Grid-connected (at low voltage level) renewable energy sources generating on a self-produced and self-consumed model;
    - Self-produced and self-consumed renewable/new energy sources of households (individual houses), State offices and public works;
    - Sources utilizing excess heat from the product production line for self-use, grid-connected or off-grid and no sale to the power system.
2. Off-grid/no sale to power system sources, excluding electricity export and import. Further, it adds low voltage grid for an exemption.

Improving and upgrading of power projects

Including upgrades to transformer stations outreaching scope of factory and existing works, equip with underground power, non-electricity projects power grid relocation to clear land title for investment projects at State agencies request relying on supporting socio-economic development, without changing capacity/voltage level and land requirement.

Investment – Prioritising Liquefied natural gas (LNG)

Decree 56 stresses on the importance of LNG to aim for energy security with a centralized vision for smooth fuel availability. Further, Decree 56 explicitly provides for three milestones to be recorded in the investment registration certificate/investment policy approval for power projects, namely:

- Investment decision (it confirms project award to the investor and project's inclusion in the relevant master planning, as applicable)
- Commencement of main project works (essentially, in practice it may be beginning of construction)
- Commercial operation (COD)

Fuel price to Electricity price – Pass-through mechanism

At par with international power industry standards, Decree 56 provides legal grounds for transferring fuel price to electricity price with the following principles:

- Power purchase agreement (PPA) to note on the fuel price at the supplied rate [Fuel supply agreement (FSA) can be referred for such pricing] while ascertaining on the electricity price. If there are multiple FSAs, then the fuel price shall be calculated by taking weighted average of the volume of the invoices raised as per the FSAs;

- PPA price is permitted to budget by way of recovery for port warehouse and gas pipelines infrastructure for direct import and use of LNG costs, subject to mutual agreement among the power seller and the buyer and eliminating duplication with the supplied fuel price.

Projects sharing port warehouse and gas pipelines infrastructure are mandated to buy and use regasified LNG for which the fuel price supplied at the power plant to be calculated as per the price of imported LNG to the port in Vietnam and the price [determined by the Ministry of Industry and Trade (MoIT)] of LNG storage, re-gasification, transportation and distribution services;

Long-term contracted offtake - PPA

- Minimum offtake for gas-fired thermal power projects using domestic natural gas shall be ascertained at the maximum level based on the gas supply capacity, meeting the binding requirements on fuel and capacity, and the available electricity generation output. Further, provisions stated herein shall apply for such projects with COD before January 1, 2036, after the written notice of acceptance of the results of the investor's project completion acceptance is issued.

- For projects using imported LNG the minimum long-term contracted should at least be at 65% of the average electricity output of many years. Further, provisions stated herein shall apply for such projects with COD before January 1, 2031, after the written notice of acceptance of the results of the investor's project completion acceptance is issued;

- Applicability shall be limited to the principal and interest repayment period, capped at ten (10) years from COD, post which the power seller and the buyer shall negotiate for the PPA price for the remaining term;

- The average electricity output over many years shall be determined according to the Regulations on methods for determining electricity generation service prices; principles for calculating electricity prices to implement electricity projects; main contents of the Model PPA issued by the MoIT.

[Note: Gas-fired thermal power plant projects under public-private partnership (PPP) regime with build-operate-transfer (BOT) contract mechanism may be considered for such mechanism.]

Bidding

More than one investor interest shall trigger bidding requirements for gas-fired and coal-fired thermal power projects and renewable energy project (such as, solar, wind, hydro and biomass).

Mandatory bidding documents – in line with the bidding laws

a) Electricity buyer details; b) Pre-feasibility (pre-FS) study report; c) Draft PPA proposal by the buyer in agreement with the agency deciding to organize the bidding; d) Requirements on localization rate for important equipment items and consulting services to ensure energy security; e) Investment mechanism as noted under 'Investment' heading above.

Survey and pre-FS costs

- Investor to incur such costs if it takes the initiative to propose the project, further, applies in case the project is not awarded;
- The authority deciding on the organization of bidding;
- The selected investor shall be responsible for reimbursing the costs specified in the above point (principle stays in line with Decree No. 58/2025 of the government, dated March 03, 2025);

Evaluation criteria's

Power projects with price frame issued by the MoIT shall be evaluated as follows:

- The ceiling price of electricity in the bidding documents is the maximum price of the electricity generation price frame corresponding to the type of electricity source issued by the MoIT in the bidding year;
- The investor proposes the electricity price in the bidding documents which is not higher than the ceiling electricity price specified in the bidding documents;
- The winning bid price shall be the maximum electricity price for the electricity buyer to negotiate the PPA price with the winning investor.

Power projects without a price frame shall follow the evaluation process as follows:

- The standard for evaluating the efficiency of electricity sector development is the minimum value equal to the annual state budget payment. The investor to propose such value in the bidding documents for it to be not lower than the minimum level specified in the bidding documents;
- The value specified in the above point shall be independent of the investor's obligations to the state budget;
- The payment to the state budget of the value specified in first point above shall be made by accounting: the annual payment to the state budget shall be determined based on the value proposed by the investor in the bidding documents; the form, progress and deadline for payment of the value specified in the first point above which shall be specifically stipulated in the relevant business investment project contract.

PPA Negotiation

- Winning investor shall be subjected to a deadline for feasibility study report approval from the date of signing the relevant business investment project contract i.e., for hydro, gas-fired/ coal-fired thermal power and wind power projects, the maximum period is fifteen (15) months; Whereas, for biomass and solar power projects, the maximum period remains six (6) months.

- Further, the power buyer and the winning investor shall negotiate and sign the project PPA within the timeline of three (3) months from the date the investor submits a valid dossier to the said buyer, ensuring project implementation as per the approved terms.

Transition

- Power projects that are included in the power development plan or its implementation plan, having a capacity scale included in the power supply network development plan as stated in heading 'Planning' above, shall continue to be implemented as already approved. Such projects are required to be precisely updated in the provincial plan or its relevant implementation plan.

- Medium-voltage and low-voltage power grid projects for which valid application dossiers have been received by the investment registration agency requesting approval or adjustment of investment policies before the effective date of Decree 56 shall continue to be implemented in accordance with the provisions of the investment laws.

- Prospective bidding shall be in accordance with Decree 56, while the bidding documents issued in accordance with Decree No. 115/2024/NĐ-CP dated September 16, 2024, but by the effective date of Decree 56 the investor selection results have not been approved: if the bidding documents have been received, such documents shall continue to be evaluated on the basis of the issued bidding documents; if the bidding documents have not been received, the agency deciding to organize the bidding for selecting investors shall be allowed to extend the bid closing time and edit the bidding documents in accordance with the provisions of Decree 56.

FOR MORE INFORMATION PLEASE CONTACT:

V I L A F
VIETNAM INTERNATIONAL LAW FIRM

Ngoc Anh Bui
Hanoi Managing Partner
anh.bui@vilaf.com.vn

Vaibhav Saxena
Foreign Counsel
vaibhav.saxena@vilaf.com.vn