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EVN's Proposals on the Construction and Commercial Operation of Vietnam Solar and Wind Power Projects

On 14 June 2021, Vietnam Electricity (**EVN**) sent the official letter no. 3331/EVN-TTD (**OL 3331**) to the Ministry of Industry and Trade (**MOIT**) reporting some practical problems occurred during the implementation of the solar and wind power projects, and proposing some measures against such problems.

On the same date, EVN issued Decision No. 746/QD-EVN adopting the Testing and Commercial Operation Date (**COD**) Acceptance Procedures applicable for solar and wind power projects (**Decision 746**). Decision 746 has been effective since the signing date and replaced the previous EVN's Decision No. 1010 (2020).

In this update, we will highlight some major points under the OL 3331 and Decision 746 that, from our point of view, renewable energy developers should stay alert on.

1. Reports on the execution and performance of the power purchase agreements (PPAs) of wind power projects under the OL 3331

(a) Negotiation and execution of PPAs:

- In accordance with Circular No. 02/2019/TT-BCT dated 15 January 2019 on wind power projects development and model PPA for wind power projects (**Circular 02**) and other guiding documents from the MOIT, EVN has supplemented a new clause into the Model PPA applicable for renewable energy projects. The clause requests the project developers to commit that (i) their power plants will stop generating/ curtail the power capacity production in case the grids are overloaded, and (ii) the developers will not claim EVN in such a case.
- EVN reports that EVN has complied with all regulatory requirements applicable for the PPAs' negotiation and execution, acceptance of the COD of

the plants, and payment of the purchased power. However, as the inspection of the construction works is not within the EVN's authority, EVN does not have adequate information about the developers' compliance in this regard.

- (b) Project implementation results: as of 17 May 2021
- The number of wind power projects having the PPAs signed with EVN is 130 projects with the total capacity of 7405.78 MW.
 - The number of wind power projects already reaching the COD is 12 projects with the total capacity of 581.93 MW.
 - The number of wind power projects expected to reach the COD by 01 November 2021 is 105 projects with the total capacity of 5671.7 MW.
 - The number of wind power projects not being able to reach the COD by 01 November 2021 is 13 projects with the total capacity of 1152.13 MW.

2. Proposals to the MOIT

In order to strictly follow the legal requirements on the construction and acceptance of power projects, under the OL 3331, EVN proposes the MOIT to:

- (a) supplement “*an approval of the MOIT or provincial Department of Industry and Trade on the acceptance test for construction completion*” as a prerequisite for the COD of the solar and wind power projects.
- (b) issue the guiding documents on:
- procedures to comply with Article 8 of Circular 02 based on the principle that the power sellers have to cooperate with the competent authorities to accept the construction completion and provide the power purchaser with the relevant documents to accept the COD; and
 - legal basis to negotiate and execute PPAs with developers of wind power projects that have the tentative COD after 31 October 2021.
- (c) consider the following proposals from EVN regarding the COD acceptance of projects which will not complete the grid connection by 01 November 2021 and projects which will operate after FIT is expired:
- for the projects which will not complete the grid connection by 01 November 2021: the COD acceptance will only be conducted after the Prime Minister or the MOIT approves the provisional grid connection plan and allows COD acceptance upon provisionally connecting the grid.
 - for the projects which will operate after FIT is expired: the relevant tests will not be conducted, and such projects will not be allowed to generate power to the grid until the competent authorities have further guidance.
- (d) allow the National Load Dispatch Centre to review and approve for the tests of each power plants upon their registration; in case the tests cannot be conducted due to the system conditions, to allow the extension of testing time.

3. COD of the power projects having the actual generation capacity higher than the registered capacity

In accordance with Article 4 of the Testing and COD Acceptance Procedures applicable for solar and wind power projects attached to Decision 746, if the electricity power trading company finds that the actual generation capacity of a plant is higher than the capacity registered for the COD acceptance, the surplus capacity will be reported to the MOIT. The price applicable for this surplus capacity will be determined by the MOIT.

It can be seen that the above provision creates a mechanism for the operation of plants that have the actual capacity higher than the registered one. This may constitute a loophole for the existing regulations on planning and power. It is not clear whether developers of these projects will have to re-submit the dossier to change the capacity information reflected under the power master plan and other investment licenses or require the additional approval from the Prime Minister. There has been no precedence for the application of this provision in practice. We expect that EVN may issue further guidance to solve the ambiguousness arising out of this provision in the near future.

Key contacts

If you have any questions or would like to know how this might affect your business, please contact the key contacts.



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