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LEGAL UPDATE

ELECTRICITY GENERATION PRICE RANGE
FOR SOLAR AND WIND POWER PLANTS



At the end of 2020, the feed-in tariffs (**FiT**) regulation for solar power projects expired, and in late 2021, the same happened for wind power projects. However, some projects were being developed but did not meet the relevant FiT deadline. Since the expiration of the FiTs regulations, the Government has tried to find a way to address this. Circular No. 15/2022/TT-BCT was issued on 3 October 2022 (**Circular 15**) and hopefully will help to solve some of the outstanding issues. It provides methods to calculate electricity generation tariff range. Circular 15 will apply to transitional solar power plants (**SPPs**) and transitional wind power plants (**WPPs**) (together referred to as **Transitional Plants**). Circular 15 came into force on 25 November 2022. In this legal update, we will set out specific noteworthy points.

1. Scope¹

Circular 15 will apply to Transitional Plants being ground-mounted or floating SPPs and onshore or offshore WPPs

- that have signed power purchase agreements (**PPAs**) with Electricity Vietnam (**EVN**) before:
 - 1 January 2021 for SPPs; and
 - 1 November 2021 for WPPs;
- but failed to meet conditions to be eligible for FiTs under
 - Decision 13/2020/QĐ-TTg applicable to SPPs; and
 - Decision 37/2011/QĐ-TTg and 39/2018/QĐ-TTg applicable to WPPs.

To fall under the scope of Circular 15, Transitional Plants must comply with

- the tariff mechanism applicable at the time of commercial operation acceptance date (**COD**); and
- regulations on construction and investment, They also need to follow the release capacity of the power grids; and the absorption capability of the national power system. Finally, they need to ensure

that the project's effectiveness aligns with the approved mechanism.

It is expected that the signed PPAs need to be amended as these are as per the previous model PPA. This means that at least parts related to the tariffs need to be changed. However, it may trigger a renegotiation of other parts of the PPA.

Considering that there is no reference to rooftop solar projects, it seems that these projects will not fall under the scope of Circular 15.

2. Electricity Generation Price Frameworks

Circular 15 defines the electricity generation price frameworks (**Price Frameworks**) of ground-mounted and floating SPPs, onshore and offshore WPPs. These range from the minimum tariff of 0 VND/kWh to the maximum tariff.

Data from a standard power plant are used to calculate the maximum value. A standard power plant is defined as a power plant with an installed capacity of 50 megawatts peak (**MWp**) or 50 megawatts (**MW**) for SPPs and WPPs, respectively.

A specific formula is used for each type of power plant.² The formula will consider the average fixed costs and operation and maintenance costs of the Standard SPP or WPP. This formula is consistent with how tariff ranges are applied to coal-fired and gas-combined cycle thermal power plants. The tariff range will be defined and issued by the Ministry of Industry and Trade (**MOIT**) only once.

3. Maximum Tariffs³

To select suitable data to calculate the maximum tariffs, investors of all SPPs and WPPs falling within the scope of Circular 15 need to submit either a feasibility study or technical design of the plants to EVN. This needs to be done within two weeks after the entering into force of Circular 15, so on 9 December 2022. Parties involved in this process besides the developers of the projects concerned are EVN, the MoIT and the Electricity Regulatory Authority of Vietnam (**ERAV**).

¹ See Annex 1 for an overview of this process.

² See Annex 1 for the detailed formulas.

³ See Annex 2 for more information on the process. ⁴ See Section 1 of this update.



4. Electricity Generation Price Brackets

The chart in appendix 2 illustrates the procedures for developing, appraising, and issuing electricity generation price brackets. It is expected that MOIT will provide guidance for the implementation of this Circular 15:

- The consequences if developers do not submit reports on time to EVN or fail to submit reports;
- Qualifications for EVN to select sample reports of the Standard SPP and WPP to determine the electricity generation price brackets; and
- The calculation method to determine the electricity generation price applicable to the Transitional Plants, which are not a Standard SPP or WPP.

5. Sell Power to EVN

EVN is the dominating party in the Vietnamese energy market. Since 2019 private parties can sell the power, they do not need to the wholesale electricity market.

Transitional Plants can register to participate voluntarily. It seems that the tariff at which the plant could sell would need to be within the relevant tariff range. It depends on the committed capacity. However, it is not yet clear how committed capacity will be determined nor how the contracted tariff will be agreed upon.

6. Conclusion

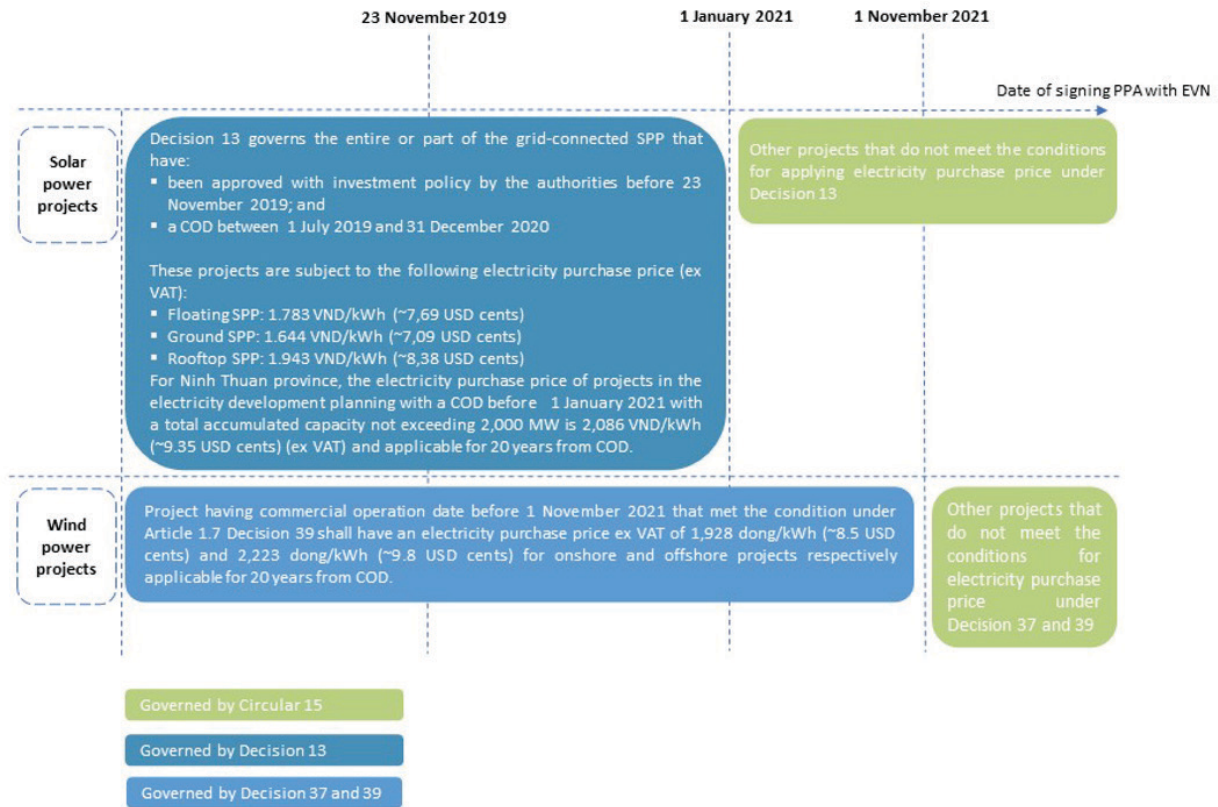
The issuance of Circular 15 may be considered as the first step of MoIT to solve the issue of determining the price for the Transitional Plants that was not regulated up to now. However, there are still several points that remain unclear and will hopefully be clearer soon. These clarifications are needed to attract investors in wind and solar energy.

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APPENDIX 1



Maximum Value Applicable to SPPs

The maximum value applicable to SPPs is the electricity generation price of the Standard SPP (P^{MT}), which is determined by the following factors:

- average fixed costs of the Standard SPP (FC^{MT}); and
- fixed operation and maintenance costs of the Standard SPP ($FOMC^{MT}$).

So the formula will be: $P^{MT} = FC^{MT} + FOMC^{MT}$

- FC^{MT} is calculated by dividing the annual converted investment capital for the construction of the Standard SPP (excluding VAT) (TC^{MT}) by the average delivery electricity of the Standard SPP over multiple years (E_{bq}^{MT}); and
- $FOMC^{MT}$ is calculated by dividing the total fixed operation and maintenance costs of the Standard SPP (TC_{FOMC}^{MT}) by the average delivery electricity of the Standard SPP over multiple years (E_{bq}^{MT}).

Maximum Value Applicable to WPPs

The maximum value applicable to WPPs is the electricity generation price of the Standard WPP (P_c^G), which is determined by the following factors:

- average fixed costs of the Standard WPP (FC^G)
- fixed operation and maintenance costs of the Standard WPP ($FOMC^G$)

So the formula will be: $P_c^G = FC^G + FOMC^G$:

- FC^G is calculated from (i) annual converted investment capital for construction of the Standard WPP (excluding VAT) (TC^G) dividing (ii) average delivery electricity of the Standard WPP over multiple years (E_{bq}^G); and
- $FOMC^G$ is calculated from (i) total fixed operation and maintenance costs of the Standard WPP (TC_{FOMC}^G) and (ii) average annual delivery electricity of the Standard WPP (E_{bq}^G).

APPENDIX 2

