

THE PRIME MINISTER

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

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Hanoi, March 24, 2014

DECISION

ON SUPPORT MECHANISM FOR DEVELOPMENT OF BIOMASS POWER PROJECTS IN VIETNAM

Pursuant to the Law on Organization of the Government dated December 25, 2001;

Pursuant to the Law on Electricity dated December 03, 2004, the Law on amendment, supplementation of a number of articles of the Law on Electricity dated November 20, 2012;

Pursuant to the Law on Investment dated November 29, 2005;

Pursuant to the Law on Construction dated November 26, 2003;

At the proposal of the Minister of Industry and Trade,

The Prime Minister promulgates Decision on support development mechanism for biomass power projects in Vietnam.

Chapter I.

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. This Decision provides support mechanism for development of projects generating power by biomass energy in Vietnam.
2. Subjects of application of this Decision include organizations, individuals participating in power activities which are related to development of biomass power projects in Vietnam.

Article 2. Interpretation of terms

In this Decision, the following terms are construed as follows:

1. The electricity buyer is the Electricity of Vietnam or its authorized member unit (for grid connection projects).

2. The electricity sellers are organizations, individuals having licenses on electricity activities in power generation sector from electricity plants that use biomass energy.
3. Biomass energy used for production of electricity includes: By-products, waste in agricultural production, agricultural and forestry processing and other types of plants which may be used as fuel for electricity production.
4. Biomass power projects are power generation plant projects that use mainly biomass energy for electricity production.
5. Grid-connected biomass power projects are biomass power plant projects built and connected to the national power grid for supply of a part or entire power for production to the national power grid.
6. Connection point is the position that the electric line of the electricity Seller connected with the electric system of the electricity Buyer.
7. Electricity delivery and receipt point is the location where the metering equipment located as agreed in the electricity sale and purchase contract in order to determine electricity output sold out of the electricity Seller.
8. Non-grid connected biomass power projects are biomass power plant projects built to supply entire power to households in areas, and not connected with the national power grid.
9. The model contract of electricity sale and purchase for grid-connected biomass power projects is the contract for electricity sale and purchase issued by the Ministry of Trade and Industry to be as a basis for application in transactions of sale and purchase of electricity generated from grid-connected biomass power projects between electricity sellers and electricity buyers.
10. Avoidable expense of the national power system is the expense for production of one (01) kWh of a combination of thermo-electrical machine using imported coals in the national power system; this expense is avoidable if the Buyer buys one (01) kWh from a power plant that uses alternative biomass energy.
11. Price list of avoidable expense being applied to biomass power projects is the price list calculated based on avoidable expenses of the national power system when one (01) kWh of electricity generated from a power plant using biomass energy is generated to the national power system.
12. Main items of a biomass power plant project include boiler, turbine, power generator and substation.
13. The power project of electricity-heat co-generation is the biomass power project which simultaneously provides both heat and electricity.

Chapter II

PLANNING AND DEVELOPMENT OF BIOMASS ELECTRICITY

Article 3. Planning and development of biomass electricity

1. The planning for development of biomass power is one of contents of the planning for development and use of biomass energy. The planning for development and use of biomass energy includes the planning for development and use of national biomass energy, the planning for development and use of provincial-level biomass energy. The planning for development and use of biomass energy will be a basis for activities of investment, development and use of biomass energy resources, adjusted in accordance with researches, assessments on potentials of biomass energy in each period.

2. The planning for development and use of national biomass energy and the development and use of provincial-level biomass energy is established once for a period by 2020, with a vision till 2030 and is amended or supplemented as necessary. From planning stages afterwards, the planning for development of biomass power is integrated into the Planning for development of provincial-level electricity and the Planning for development of national power.

Article 4. Elaboration, appraisal, approval and notification of the Planning for development and use of biomass energy

1. The Ministry of Trade and Industry will organize the planning for development and use of national biomass energy and submit to the Prime Minister for approval; announce and instruct, monitor and check the implementation of the approved planning for development and use of biomass energy.

2. People's Committees of provinces and centrally-run cities (below collectively referred to as provincial-level People's Committees) will organize the Planning for development and use of provincial-level biomass energy and submit to the Minister of Industry and Trade for approval.

3. The announcement and adjustment of the planning will be conducted in accordance with prevailing provisions.

Article 5. Expenses for the elaboration, appraisal, approval and announcement of the Planning for development and use of biomass energy

1. The State Budget will provide budgets for implementation of the elaboration, appraisal, announcement and adjustment of the Planning for development and use of biomass energy.

2. It is encouraged to mobilize other lawful financial sources for building the Planning for development and use of biomass energy.

Article 6. Investment for construction of grid-connected biomass power projects

1. The investment for construction of biomass power projects must be complied with the Planning for development and use of biomass energy and the planning for development of electricity approved by competent state agencies.
2. For biomass power projects which are not listed in the planning for development and use of national biomass energy and the planning for development of national power approved, investors will be responsible for setting up Dossiers for supplementation of the planning and send to the Ministry of Industry and Trade for appraisal, submit to the Prime Minister for consideration and decision.
3. While the Planning for development and use of biomass energy is not approved yet, the investment in biomass power projects must be approved by the Prime Minister.
4. Investment in construction of biomass power projects will be conducted in accordance with legal provisions on construction, fire prevention and protection, environmental protection and other relevant provisions.

Article 7. Integration of biomass power projects into the power system, moderate operation of biomass power plants

1. Integration of biomass power projects into the national power grid must comply with the approved planning for development of electricity. The connection point is agreed by the electricity Seller and the electricity Buyer based on the principle that the electricity Seller is responsible for investment of electricity transmission lines to the connection point integrated into the nearest national power grid according to the provincial-level planning for development of electricity. In case that the connection point of the national power grid has not existed yet in the planning for development of electricity, the investor needs to reach agreements with the electricity distribution unit or the electricity transmission unit as basis for implementation of supplementation for the planning for development of provincial-level electricity in accordance with prevailing provisions. In case where it is unable to reach an agreement on a connection point, the electricity Seller is responsible for submitting to the Ministry of Industry and Trade for consideration and decision.
2. The investor of the biomass power project will be responsible for investment, operation and maintenance of electricity lines and boost substation (if any) from the power plant of the electricity Seller to the connection point according to agreement with the electricity Buyer.
3. Depending on voltage level integrated, the electricity distribution unit or the electricity transmission unit will be responsible for investment in the power transmission lines, starting from the point connected into the national power grid, in accordance with the approved planning for development of electricity, and enter into agreement on electric integration with the investors of biomass power projects.
4. After completing investment and pre-acceptance test for commercial operation, units that harmonize electricity system and operate electricity market will be responsible for mobilizing

biomass power plant in the principle that give priority to exploit entire output capacity and generated power in compliance with the supply ability of biomass energy of the plant.

Article 8. Conditions for beginning construction of a biomass power works

Investor will only permitted to begin construction of a grid-connected biomass power works, in addition to conditions provided in Article 72 of the Law on Construction and relevant legal normative documents, it is additionally required to have: The investment certificate, the acceptance of buying electricity of the electricity Buyer; the agreement on electricity integration with the electricity distribution unit or the electricity transmission unit (for grid-connected biomass power projects); opinion of competent state agencies on the design in accordance with legal provisions on management of investment and construction of projects.

Article 9. Termination of project implementation

Within 12 months since the issuing date of the Investment Certificate, if the Investor does not build main items of the project or maximum of 24 months since the date of operation commitment stated in the Investment Certificate, if the biomass power project has not been put into operation, the provincial-level People's Committee will be responsible for consideration and withdrawal of the Investment Certificate as prescribed, reports to competent state agencies for handing over the project to other investor for implementation. Unless investor has plausible reasons and the competent state agencies accepted the suspension or postponement of the project implementation schedule.

Article 10. Report regime for project implementation

1. Within 5 working days since the issuing date of the Investment Certificate, the investor will be responsible for sending an authenticated duplicate of the Investment Certificate to the Ministry of Industry and Trade for supervision and management.
2. During the construction of the biomass power project, before the 15th of first month of a quarter, the investor must send a report on the status quo of deployment of project implementation of previous quarter and implementation plan for next quarter. Every year, before January 15, the Investor must send a report on status quo of deployment of project implementation of the previous year and deployment plan for next year to the provincial-level People's Committee, Ministry of Industry and Trade for management, compilation, supervision of implementation and to the electricity Buyer for coordination in implementation.

Chapter III.

SUPPORT MECHANISM FOR DEVELOPMENT OF BIOMASS POWER PROJECTS

Article 11. Obligations of buying electricity from grid-connected biomass power projects

1. The electricity buyers will be responsible for buying entire electricity produced from grid-connected biomass generation plants within their managed areas.

2. The sale and purchase of electricity will be conducted via electricity sale and purchase contracts set in accordance with the model electricity sale and purchase contract applicable to grid-connected power projects issued by the Ministry of Industry and Trade.

3. Within 6 months since the date of having a suggestion of selling electricity from the investor, the electricity Buyer will have to conduct the signing of electricity sale and purchase contract with the electricity Seller as prescribed.

4. The time limit for electricity sale and purchase contracts for biomass power projects is twenty (20) years since the date of commercial operation. After 20 years, both Parties may extend the time limit of the contract or sign new contract in accordance with prevailing legal provisions.

Article 12. Investment capital and tax incentives

1. Mobilization of investment capital:

a) The Investor is entitled to mobilize capitals from organizations and individuals in and out of the country for investing in implementation of biomass power projects in accordance with prevailing legal provisions.

b) Biomass power projects are entitled to incentives in terms of investment credits in accordance with prevailing legal provisions on investment credit and export credit of the State.

2. Import tax: Biomass power projects are exempt from import tax for goods imported to create fixed assets for the projects; imported goods are materials, supplies and semi-products which have not been locally produced and imported for serving production of projects in accordance with prevailing legal provisions on export tax and import tax.

3. Corporate income tax: The exemption, reduction of corporate income tax for biomass power projects will be conducted as for projects which are subject to investment incentives according to prevailing provisions of taxation.

Article 13. Land incentives

1. Biomass power projects and power line and substation works for connecting to the national power grid are entitled for exemption or reduction of land use levy or land rent according to prevailing legal provisions applied for projects under investment incentives domains.

2. Based on the planning approved by competent level, provincial-level People's Committee will be responsible for allocating sufficient land for investors to implement the biomass power projects. Compensation, support for site clearance will be conducted in accordance with prevailing legal provisions on land.

Article 14. Power sale price of grid-connected biomass power projects

1. For heat and electricity cogeneration projects: The electricity Buyer will be responsible for buying entire redundant electricity capacity from heat and electricity cogeneration projects which use biomass energy with the electric price at the delivery and receipt point is VND 1,220 / kWh (not included value-added tax, equivalent to 5.8 US cents/kWh). Electricity price is adjusted according to fluctuations of the exchange rate VND / USD.

2. For other biomass power projects:

a) Power projects using biomass energy for generation, but not heat and electricity cogeneration projects: Electricity price applied price list of avoidable expenses which is applied to biomass power projects.

b) Every year, the Ministry of Industry and Trade will build and promulgate Price List of avoidable expenses being applied to biomass power projects.

3. Biomass power projects applied electricity sale prices as prescribed in Clause 1 and Clause 2 of this Article will not entitled to the mechanism on price support for electricity output of projects according to other prevailing legal provisions.

4. Expenses for buying electricity from biomass power projects will be calculated and fully stated with input parameters in the annual plan for electricity sale price of the Electricity of Vietnam approved by competent state agencies.

5. Ministry of Industry and Trade will supervise and propose adjustment of electricity purchase price as prescribed in Clause 1 of this Article, report to the Prime Minister for consideration and decision.

Article 15. Incentives and support for non-grid connected biomass power projects

1. Non-grid connected biomass power projects are entitled to incentives and supports as prescribed in Article 12 and Article 13 of this Decision.

2. Investors will build plans for electricity prices and determine total support levels from the state budget and submit to the Ministry of Industry and Trade for appraisal, sending of report to the Prime Minister for approval. The total support level from the state budget is extracted from the Fund for environment protection of Vietnam.

Chapter IV.

ORGANIZATION OF IMPLEMENTATION

Article 16. Obligations of Ministries, local authorities for biomass power projects

1. Ministry of Industry and Trade will be responsible for:

- a) Guiding contents, orders of, procedures for elaboration, appraisal, approval, adjustment and announcement of the Planning for development and use of biomass energy.
- b) Organization, guidance and coordination with People's Committees of provinces to check and support the implementation of this Decision.
- c) Promulgating the model the electricity sale and purchase contract for grid-connected biomass power projects.
- d) Building and promulgating national technical regulations on biomass power.
- dd) Promulgating price list of avoidable expenses for biomass power projects yearly.

2. Ministry of Finance: Chairing, coordinating with the Ministry of Industry and Trade, the Ministry of Natural Resources and Environment to provide financial mechanism for support of development of non-grid connected biomass power projects from the Fund for environmental protection of Vietnam in accordance with prevailing legal provisions.

3. People's Committees of provinces and centrally-run cities:

- a) Coordinating, supporting investors in term of compensation, site clearance, infrastructure, human source to invest, implement and develop local biomass power projects.
- b) Supervising, monitoring and inspecting the implementation of local biomass power projects within their competence.
- c) Conducting the state management on activities relating to biomass power in the localities according to prevailing legal provisions.
- d) For non-grid connected biomass power projects, provincial-level People's Committees will apply incentive mechanism as prescribed in Article 12, Article 13 of this Decision and be responsible for management, supervision and assurance of effective investment of local biomass energy resources.

Article 17. Effect

- 1. This Decision takes effect on May 10, 2014.
- 2. Ministers, heads of ministerial-level agencies, heads of governmental agencies, chairmen of People's Committees of provinces and centrally-run cities; heads of agencies, units and organizations relating to activities of development of biomass power projects in Vietnam will take responsibilities to implement this Decisions./.

THE PRIME MINISTER

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