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Public Consultation Workshop – DPPA Design and Pilot Planning for Vietnam

12 June 2019, Hanoi

AGENDA

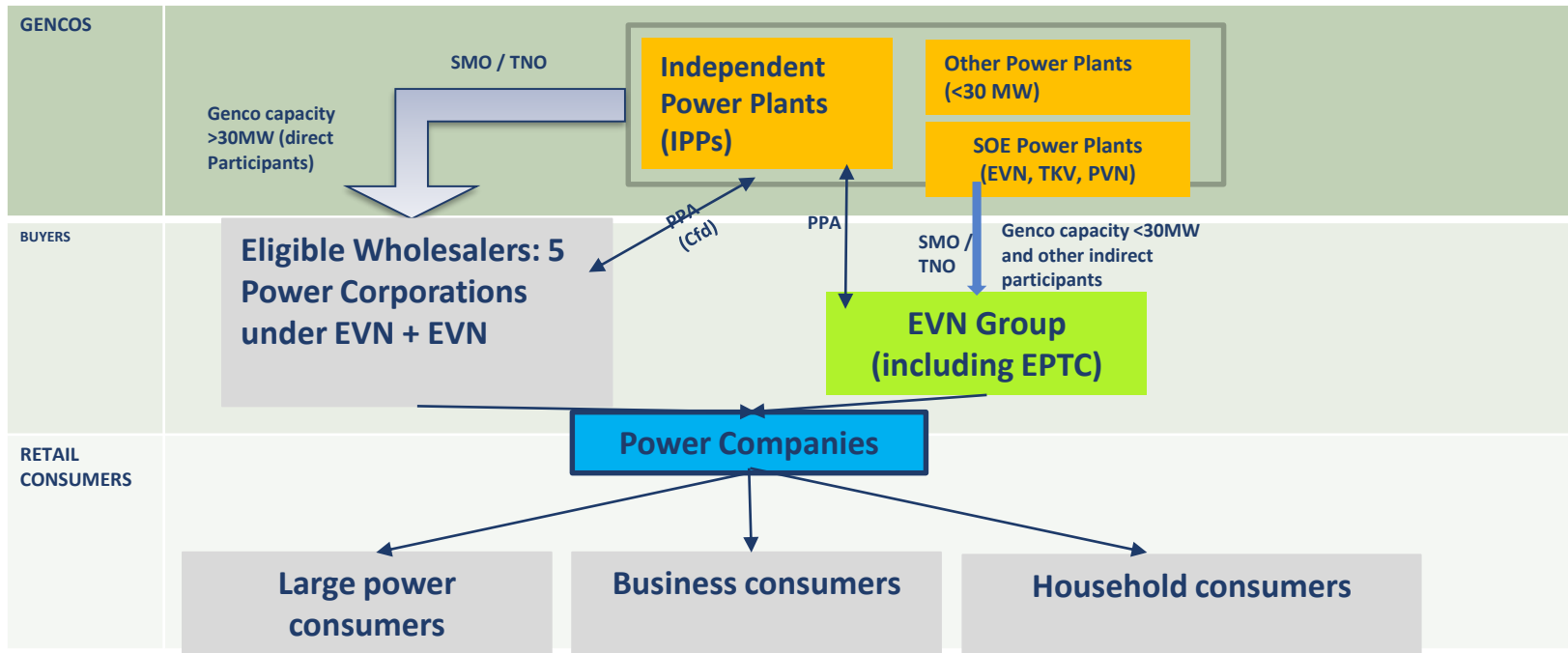
- Legal requirements to implement Option D – the key issues
 - Current VWEM structure: how to adapt Option D to fit or vice versa
 - Where do renewable energy Gencos fit into the VWEM under today's law and what needs to change for Option D?
 - How can consumers directly participate in the VWEM today and under the Option D model?
- Key legal documents involved
 - Legislative strategy: Prime Minister Decision vs. MOIT regulation
 - High-level overview of the agreements involved

Legal requirements to implement Option D - Current VWEM structure: how to adapt Option D to fit or vice versa

The VWEM is conceived and regulated under the following key legal documents:

1. The Electricity Law 2004 (as amended in 2012) (“**Electricity Law**”);
2. Decision 63/2013/QD-TTg dated November 8, 2013 of the Prime Minister promulgating roadmap, conditions and structuring of the power sector in order to create and develop all levels of power market in Vietnam (“**Decision 63**”);
3. Decision 6463/QD-BCT dated 22 July 2014 of the MOIT: master plan for design of VWEM (“**Decision 6463**”);
4. Decision 8266/QD-BCT dated August 10, 2015 of the MOIT approving detailed plan for design of VWEM (“**Decision 8266**”); and
5. Circular 45/2018/TT-BCT dated November 15, 2018 of the MOIT regulating operations of VWEM and replacing Circular 56/2014/TT-BCT (“**Circular 45**”).

VWEM 2019 (Circular 45)



Issue 1 – can RE projects sell into the VWEM today?

- PM Decision 63: no clear statement; no restriction or limit, “generators” have the right subject to further guidelines.
- MOIT Decision 8266: wind and solar plants, regardless of capacity, “shall not be allowed to participate” in the VWEM.
- MOIT Circular 45: wind and solar plants with capacity >30MW may choose to apply to participate in the VWEM. Otherwise, participate only indirectly.
- PM Decisions 11 (solar) and 37 (wind): EVN or authorized subsidiary “is responsible to purchase all the power produced” from solar and wind plants (at relevant FiT).
 - **Remove discrepancies and facilitate plants with <30MW capacity to participate directly in the VWEM for purposes of the pilot project.**

Issue 2 – can consumers buy direct from PCs today?

- Electricity Law: large electricity users may buy power directly from generators pursuant to fixed term contracts or by way of spot dealing on the electricity market.
- PM Decision 63: large power consumers are eligible to buy direct from generators and/or wholesalers (EVN, PCs).
- MOIT Decision 8266: large power consumers may participate in the wholesale market. Large power consumers = buy at minimum 110kV level and are directly connected to 220kV transformers.
- MOIT Circular 45: silent on rights on large power consumers.
 - **Clarify rights of relevant consumers to buy directly from EVN/PCs at wholesale rates.**
 - **Adjust definition of large power consumers or establish new principles specifically for Option D pilot project participant consumers.**

Issue 3 – priority dispatch rights

- What is priority dispatch?
 - NLDC, acting as SMO, gives priority to generators using renewable energy sources (subject to secure operation of the national electricity system and based on transparent and non-discriminatory criteria).
- Why priority dispatch?
 - To reflect the intermittent nature of the power generation and to support emissions targets: give priority dispatch to those sources which generate electricity without emitting pollutants.
- Where is priority dispatch recognized?
 - Currently, nowhere.
 - **Codify and ensure priority dispatch as key feature of the pilot.**

Issue 4 – CfD characterization

- As between Genco and Consumer, the relationship is purely a financial transaction: exchanging a fixed-price cash flow for a variable-priced cash flow and environmental attributes.
 - CfDs are an express feature of the current VWEM design – included in the standard-form PPA issued with Circular 45.
 - However, not regulated outside the relationship between power seller and buyer.
 - Prima facie, should be allowed on basis of freedom of contract and civil/ commercial rights of private entities.
 - Query re public companies.
 - Cannot rule out that CfDs of this nature could be considered ‘gambling’ under Vietnam law.
- **Recognize and provide for lawfulness of CfDs between Genco and Consumer.**

Key legal documents – PM or MOIT Decision?

Issue	Prime Minister	MOIT
Permitting RE Gencos to sell into VWEM, including those with <30MW capacity	Authority to grant all kinds of gencos the right to directly participate in the VWEM without affecting existing Decision 63 policy.	Wide power to regulate structure of VWEM, including participants, but cannot conflict with PM Decisions on wind and solar FIT regime.
Consumers buying direct from EVN/PCs at wholesale prices	Power to determine eligible wholesale power purchasers. “Large power consumers” already permitted under Decision 63.	Power to further define and identify eligible large power consumers. Current definition needs adjusting for Option D purposes to enable 22kV consumers.
Priority dispatch rights	Authority to establish VWEM’s rules and procedures, including the right of priority dispatch.	Wide powers to modify current rules and procedures to allow for priority dispatch. Potential for conflict with existing PM Decisions on wind and solar FIT regime.
CfD comfort	Authority to provide for CfDs between Gencos and Consumers as an integral feature of the Option D pilot. Remove any room for doubt over ‘gambling’.	Authority to provide for CfDs between Gencos and Consumers as an integral feature of the Option D pilot. Remove any room for doubt over ‘gambling’.

- **Prime Minister Decision establishing the Pilot project and codifying essential principles, rights and obligations of the participants.**
- **MOIT to issue detailed operative terms, likely in the form of a Circular.**

Overview of key agreements involved

No	Agreement	By and Between	Key Purpose/ Terms	Status
1	Project Participation MOU	MOIT and Genco investor(s) (and Consumers?)	To record participation in the formal pilot project and set out indicative key terms and conditions.	NEW
2	CfD/ VPPA	Genco and Consumer	Commercial agreement on: (i) contracted capacity; (ii) CfD between strike and spot prices; (iii) agreed terms and conditions re timing of project development (e.g. - LDs for delays, bonus for early completion); (iv) agreement on environmental attributes being issued/ transferred between Genco and Consumer then retired; and (v) any other agreed commercial terms.	NEW (some CfD terms in Circular 45 PPA)
3	Wholesale Market Participation Agreement	Genco and NLDC	Agreement to: (i) record the fact that the Genco is participating in the VWEM; (ii) that the Genco enjoys priority dispatch; and (iii) other terms necessary or desirable.	NEW
4	Power Purchase Agreement	Genco and EVN/ Power Corporation	Long-term contract for the sale and purchase of electrons at wholesale market prices. No CfD terms.	ADAPT
5	Interconnection Agreement	Genco and NPTC	Codify grid connection agreement.	ADAPT
6	Market Based Rider Agreement	Consumer and regular retail power seller	Sale and purchase of power at wholesale price plus "DPPA charge". Question: terms applicable to power consumed outside contracted capacity?	NEW

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