

DECISION

on support mechanism for the development of power generation projects using solid waste(s) in Vietnam

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

Pursuant to the Law on Electricity dated 3 December 2004; the Law on the Amendment of and Supplement to several articles of the Law on Electricity, dated 20 November 2012;

Pursuant to the Law on Environmental Protection dated 29 November 2005;

Pursuant to the Law on Investment dated 29 November 2005;

Pursuant to the Law on Construction dated 26 November 2003; the Law No. 38/2009/QH12 dated 19 June 2009 on the Amendment of and Supplement to several articles of the laws related to civil works investment;

In response to the request made by the Minister of Industry and Trade;

The Prime Minister promulgates the Decision on the support mechanism for the development of power generation projects using solid waste(s) in Vietnam,

Chapter I

GENERAL PROVISIONS

Article 1. Scope of Regulation and Subjects of Application

1. This Decision regulates the support mechanism for the development of power generation projects using solid waste(s) in Vietnam.

2. The subjects of application in this Decision shall be the organizations/individuals participating in electric power activities related to the development of power generation projects using solid waste(s) in Vietnam.

Article 2. Interpretation of Terms

In this Decision, the following terms shall be construed as follows:

1. Purchaser means the Electricity of Vietnam or its authorized subsidiary.
2. Seller means an organization/individual that is granted with the license on electric power operations in the area of generating the electricity from power plants using solid waste(s).
3. Investor in power generation projects using solid waste(s) means an organization/individual that carries out the investment in power generation projects using solid waste(s) in accordance with the provisions of Vietnamese laws.
4. Solid waste to be used for power generation means the waste of solid form, which is discharged from production, business, service and domestic processes or other activities and does not contain hazardous waste elements.
5. Power generation project using solid waste(s) is a power generation plant project that uses its main source of energy from solid waste(s), which are directly incinerated or combusted the gas collected from solid waste landfills for purposes of electricity production and partial or wholly supply of electric power produced to the national electricity grid.
6. Connection point is where the Seller's electric line is connected to the Purchaser's electric system.
7. Electricity delivery point is where the electric measurement/counting equipment is installed as stipulated in the Power Purchase Agreement in order to determine the Seller's power output sold.
8. Standardized Power Purchase Agreement for power generation projects using solid waste(s) means the MoIT-promulgated Power Purchase Agreement, forming the basis for the transactions between the Seller and Purchaser with regard to selling and purchasing of electricity produced by power generation projects using solid waste(s) ,

Chapter II

PLANNING AND DEVELOPMENT OF POWER SOURCES USING SOLID WASTE(S)

Article 3. Planning for the Development of Power Sources using Solid Waste(s)

1. The Master Plan for the Development of Power Sources using Solid Waste(s) is an electricity sector's plan, which is prepared at national level, forms the basis for investment activities in the development of power sources using solid waste(s), and shall be appropriately adapted to assessments/studies on the solid waste potentials in each relevant period.

2. The Master Plan for the Development of Power Sources using Solid Waste(s) shall be required to be consistent with the country's socio-economic development strategies, regional master plans, solid waste management master plans approved by competent levels, land use master plans and other relevant plans.

3. The Master Plan for the Development of Power Sources using Solid Waste(s) shall be prepared once for the period up to 2020 and vision to 2030, and adjusted and supplemented when required. For the next planning periods, the Master Plan for the Development of Power Sources using Solid Waste(s) shall be integrated into provincial/national electric power development plans and adjusted/supplemented in accordance with studies/assessments on solid waste potentials for electricity production.

Article 4. Preparation, Appraisal, Approval, Promulgation and Adjustment of the Master Plan for the Development of Power Sources using Solid Waste(s)

1. The MoIT shall arrange for the preparation, appraisal and submission of the Master Plan for the Development of Power Sources using Solid Waste(s) for the Prime Minister's approval; and for the promulgation, guidance, monitoring and inspection of the approved Master Plan for the Development of Power Sources using Solid Waste(s).

2. The promulgation and adjustment of the Master Plan shall be performed in accordance with current regulations.

Article 5. Expenditures for the Preparation, Appraisal, Approval and Promulgation of the Master Plan for the Development of Power Sources using Solid Waste(s)

1. Central budget shall guarantee the expenditures for the preparation, appraisal, promulgation and adjustment of the Master Plan for the Development of Power Sources using Solid Waste(s).

2. Other legitimate financial sources for the preparation of the Master Plan for the Development of Power Sources using Solid Waste(s) shall be encouraged.

Article 6. Investment in the Development of Power Generation Projects using Solid Waste(s)

1. The investment in the development of power generation projects using solid waste(s) shall be in compliance with the Master Plan for the Development of Power Sources using Solid Waste(s) and the master plan(s) for electric power development as approved by competent levels.

2. For power generation projects using solid waste(s) which are not included in the approved Master Plan for the Development of Power Sources

using Solid Waste(s) and National Electric Power Development Master Plan, the project investor shall be responsible for preparing the written request for the project inclusion into the Master Plan and sending to the MoIT for appraisal and submission for the Prime Minister's consideration and decision.

3. As the Master Plan for the Development of Power Sources using Solid Waste(s) has not been approved, the investment in power generation projects using solid wastes shall be subject to the Prime Minister's approval.

4. The investment in power generation projects using solid waste(s) shall be in accordance with legal provisions on construction, fire prevention/fighting and environmental protection, and other relevant regulations.

Article 7. Connection of Power Generation Projects using Solid Waste(s) to Electricity System, and Load Dispatch and Operations of Solid Waste-to-Electricity Plants

1. The connection of power generation projects using solid waste(s) to the national electricity grid must be in accordance with the approved electric power development master plan(s). The connection point shall be agreed upon by the Seller and Purchaser on the principle that the Seller shall be responsible for investing in electric transmission lines up to the nearest connection point where the national electricity grid is available in accordance with the provincial electric power development master plan. If the point connected to the national electricity grid is not prescribed in the electric power development master plan, the investor shall be required to reach a connection point agreement with the electricity distribution or transmission entity, forming the basis for a supplemented provincial electric power development master plan under the provisions of existing regulations. In case it fails to come to a connection point agreement, the Seller shall be required to submit for the MoIT's consideration and decision.

2. The investor of a power generation project using solid waste(s) shall be responsible for investing in, operating and maintaining the transmission line and transformer station (if any) from the Seller's power plant to the connection point as agreed with the Purchaser.

3. Depending on the connected voltage levels, the Electricity Distribution or Transmission Entity shall be responsible for investing in the transmission line from the point connected to the national electricity grid as prescribed in the approved electric power development master plan and signing connection agreement(s) with investors of power generation projects using solid waste(s).

4. Upon the completion of investment and hand-over for commercial operations, the Load Dispatch/Electricity Market Operations Entity shall be responsible for mobilizing the power generation plant using solid waste(s) on the principle that priority shall be given to exploiting its full capacity and

electric power generated in accordance with the supply conditions of solid waste fuels within the plant area.

Article 8. Conditions for Launching the Construction of Power Generation Projects using Solid Waste(s)

1. The investor shall only be permitted to launch the construction of his/her power generation plant using solid waste(s) if he/she has obtained, in addition to conditions as prescribed in Article 72, Construction Law and relevant legal normative documents, the following: Investment Certificate, Purchaser's written agreement on electricity purchase; connection agreement with the Electricity Distribution or Transmission Entity; comments on the design from competent state agency(ies) in accordance with legal regulations on the management of and investment in works construction.

Article 9. Termination of Project Implementation

If the investor fails, within 12 months from the issuance date of the Investment Certificate, to launch the construction of the project's main categories or if he/she fails, within maximum 24 months from the committed date of operations as prescribed in the Investment Certificate, to put the power generation project using solid waste(s) into operation. The Provincial People's Committee shall be responsible for taking the revoking of the Investment Certificate into consideration, and reporting and making recommendations to competent state agency(ies) on giving the project to another investor. If valid justifications are provided and accepted by the competent level(s), the suspension or rescheduling of the project implementation shall be allowed.

Article 10. Reporting on Project Implementation

1. The investor shall be responsible for, no later than 5 working days from the issuance date of the Investment Certificate, sending a certified copy of the Investment Certificate to the MoIT for monitoring and management purposes.

2. During the construction of the power generation project using solid waste(s), the investor shall be required, no later than the 15th day of the first month of each quarter, to report on the project implementation in the previous quarter and implementation plan for the following quarter. The investor shall be required, no later than 15 January each year, to report to the relevant Provincial People's Committee and MoIT for management, consolidation and monitoring purposes and notify the Purchaser for coordination, on the project implementation in the previous year and implementation plan for the following year.

Chapter III
SUPPORT MECHANISM FOR DEVELOPMENT OF POWER
GENERATION PROJECTS USING SOLID WASTE(S)

Article 11. Responsibility for Power Purchase from Power Generation Projects Using Solid Waste(s)

1. The Purchaser shall be responsible for purchasing all electric power produced by the power generation plant using solid waste(s) under its jurisdiction.

2. The power purchase and selling shall be performed via the power purchase agreement, which is prepared in accordance with the MoIT-promulgated Standardized Power Purchase Agreement applicable to power generation projects using solid waste(s).

3. The Purchaser shall be required, no later than 6 months from the issuance of the written request for electricity sale by the investor in power generation projects using solid waste(s), to sign the power purchase agreement with the Seller in accordance with regulations

3. The duration of the power purchase agreement applicable to power generation projects using solid waste(s) is 20 years from the date of commercial operations. After 20 years, the two sides may choose to extend the existing agreement or sign a new agreement in accordance with existing legal regulations

Article 12. Preferences for Investment Capital and Taxes

1. Mobilization of investment capital

a) Investors shall be permitted to mobilize capital from domestic and foreign organizations/individuals for the purpose of investing in the implementation of power generation projects using solid waste(s) under the provisions of existing laws on investment.

b) Power generation projects using solid waste(s) shall be entitled to preferential treatment on investment credits as prescribed in current regulations on State investment and export credits.

2. Import duties: Power generation projects using solid wastes shall be exempt from import duties for goods imported to establish project fixed assets; goods imported as raw materials, materials and semi-finished products that are not domestically produced and imported for project's production purposes under the provisions of the existing laws on import and export taxes.

3. Corporate income tax: The exemption and reduction of corporate income tax applicable to power generation projects using solid waste(s) shall be

similar to that of projects included in preferential treatment categories as prescribed in the current legal regulations on taxes.

Article 13. Preferences for Land

1. Power generation projects using solid waste(s), and transmission line and transformer station projects for connection to the national electricity grid shall be entitled to the exemption/reduction of land use/rental costs as prescribed in the existing laws applicable to projects included in preferential treatment categories.

2. On the basis of the plan approved by the competent authority, the Provincial People's Committee shall be responsible for allocating adequate land for the investor's implementation of power generation project(s) using solid waste(s). The compensation and support to premise clearance shall comply with the provisions of existing laws on land.

Article 14. Electricity Price Support to Power Generation Projects using Solid Waste(s)

1. The Purchaser shall be responsible for purchasing all electric power produced by the power generation plant using solid waste(s) with the electricity purchase price (VAT exclusive) at the delivery point as follows:

- For power generation projects using solid waste(s) that are directly incinerated, the price shall be VND 2,114/kWh (equivalent to 10.05 US cents/kWh).

- For power generation projects using combusted gas collected from solid waste landfills, the price shall be VND 1,532/kWh (equivalent to 7.28 US cents/kWh).

2. Power generation projects using solid waste(s) that apply the electricity purchase price as prescribed in Paragraph 1 of this Article shall not be entitled to any price subsidies for project power outputs as prescribed in other existing regulations; the electricity purchase price shall be subject to VND/USD exchange rate fluctuations.

3. The costs of electricity purchased from power generation projects using solid waste(s) shall be calculated and fully reflected in the input parameters of the EVN's annual electricity selling price scenario as approved by competent level(s).

4. The MoIT shall monitor and propose the calibration of the electricity purchase price as stipulated in Paragraph 1 of this Article, and report for the Prime Minister's consideration and decision.

Chapter IV

IMPLEMENTATION ARRANGEMENTS

Article 15. Responsibilities of Ministries and Localities for the Development of Power Generation Projects using Solid Waste(s)

1. The MoIT shall be responsible for:

a) Providing guidance on the contents, sequence and procedures of the preparation, appraisal, approval, adjustment and promulgation of the Master Plan for the Development of Power Sources using Solid Waste(s).

b) Making arrangements for, and facilitating and coordinating with the Provincial People's Committees in supervising and monitoring the implementation of this Decision.

c) Promulgating the Standardized Power Purchase Agreement applicable to power generation projects using solid waste(s).

d) Establishing, promulgating or submitting for the competent level's promulgation of national technical standards for power generation technologies using solid waste(s).

2. The Provincial People's Committees shall be responsible for:

1. Coordinating and providing investors with support to compensation, site clearance, infrastructure and human resources for investment in, implementation and development of locally-based power generation projects using solid waste(s).

2. Taking lead and coordinating with relevant agencies in prescribing the unit costs, which shall be paid to investors of power generation projects using solid waste(s), for the collection, transportation and disposal of solid wastes produced in the province.

3. Exercising the function of local state management of power generation projects using solid waste(s) in accordance with provisions of existing laws.

Article 16. Effectiveness

1. This Decision shall take effect from 20 June 2014.

2. Ministers, Heads of Ministerial-level agencies, Heads of Government-dependent agencies, Chairpersons of Provincial People's Committees; Heads of agencies, entities and organizations that involve in the development of power generation projects using solid waste(s) in Vietnam shall be responsible for executing this Decision./.

Recipients:

- Central Communist Party Secretariat;
- Prime Minister, Deputy Prime Ministers;
- Ministries, Ministerial-level agencies, Government-dependent agencies;

- People's Councils and Committees of provinces and centrally-run cities;
- Central Office and Committees of the Communist Party;
- General Secretary Office;
- State President Office;
- Ethnic Minority Council and National Assembly Committees;
- National Assembly Office;
- People's Supreme Court;
- People's Supreme Procuracy;
- State Audit;
- National Financial Monitoring Committee;
- Social Policy Bank;
- Vietnam Development Bank;
- Central Committee of Vietnam Fatherland Front;
- Central Agencies of Mass Organizations;
- Government Office: Minister-Chairperson, Vice Chairpersons, Prime Minister's Secretary, Chairperson of E-Portal, dependent Departments, Official Gazette;
- For filing: Clerical section, KTN (3 copies).

PRIME MINISTER

Nguyễn Tấn Dũng