

Act on Special Measures Concerning New Energy Use by operators of electric utilities (The revision of Article 2, paragraph (2), item (vi) has not come into force.)

(Act No. 62 of June 7, 2002)

(Purpose)

Article 1 The purpose of this Act is to take necessary measures for new energy use by operators of electric utilities with an aim to contribute to the stable and appropriate supply of energy in accordance with the domestic and global economic and social environment, thereby contributing to environmental protection and the sound development of the national economy.

(Definitions)

Article 2 (1) The term "operators of electric utilities" as used in this Act means General Electricity Utilities as prescribed in item (ii) of paragraph (1) of Article 2 of the Electricity Business Act (Act No. 170 of 1964), Specified Electricity Utilities as prescribed in item (vi) thereof, and Specified-Scale Electricity Utilities as prescribed in item (viii) thereof.

(2) The term "New Energy, etc." as used in this Act means the following types of energy:

(i) wind power;

(ii) photovoltaic power;

(iii) geothermal power;

(iv) hydroelectric power (limited to that as specified by Cabinet Order);

(v) heat produced with biomass (organic substances derived from animals and plants which can be used as energy sources (excluding crude oil, petroleum gas, combustible natural gas, coal, and products manufactured therefrom));

(vi) in addition to the types of energy listed in the preceding items, energy other than heat produced with fossil fuels (including crude oil, petroleum gas, combustible natural gas, coal, and products manufactured therefrom (including the by-products of such manufacture supplied for incineration)) as specified by Cabinet Order.

(3) The term "Electricity from New Energy, etc." as used in this Act means electricity that is generated through the conversion of New Energy, etc. using Facilities for Generating Electricity from New Energy, etc..

(4) The term "Facilities for Generating Electricity from New Energy" as used in this Act means facilities that convert new energy, etc. into electricity and that have been certified pursuant to the provisions of paragraph (1) of Article 9.

(5) The term "Use" as used in this Act means making all or part of the electricity supplied (except for the electricity supplied to operators of electric utilities) Electricity from New Energy, etc..

(Use Target for Electricity from New Energy, etc.)

Article 3 (1) Every four years, the Minister of Economy, Trade and Industry shall, upon hearing the opinions of the Advisory Committee for Natural Resources and Energy, set a target for Use of Electricity from New Energy, etc. obligated to operators of electric utilities (hereinafter referred to as a "Use Target for Electricity from New Energy, etc.") for the eight-year period following the relevant fiscal year, pursuant to Ordinance of the Ministry of Economy, Trade and Industry.

(2) The matters prescribed in the Use Target for Electricity from New Energy, etc. are as follows:

(i) matters related to the target amount of Use of Electricity from New Energy, etc.;

(ii) matters related to Generation Facilities for Electricity from New Energy, etc. to be newly installed; and

(iii) other matters as provided by Ordinance of the Ministry of Economy, Trade and Industry.

(3) The Minister of Economy, Trade and Industry shall, when he/she deems it particularly necessary based on the prevalence of New Energy etc., oil supply and demand, and other notable changes in economic and social circumstances, hear the opinions of the Advisory Committee for Natural Resources and Energy and change the Use Target for Electricity from New Energy, etc..

(4) When the Minister of Economy, Trade and Industry intends to set or change the Use Target for Electricity from New Energy, etc., he/she shall hear the opinions of the Minister of Environment and the Minister of Agriculture, Forestry and Fisheries or the Minister of Land, Infrastructure and Transport in advance, pursuant to the Cabinet Order.

(5) The Minister of Economy, Trade and Industry shall, when he/she sets or changes a Use Target for Electricity from New Energy, etc., make a public notification thereof without delay.

(Standard Amount of Use of Electricity from New Energy, etc.)

Article 4 (1) Operators of electric utilities shall, pursuant to Ordinance of the Ministry of Economy, Trade and Industry, notify the Minister of Economy, Trade and Industry by June 1 of each year of their Standard Amount of Use of Electricity from New Energy, etc. (meaning the amount of Electricity from New Energy, etc. calculated pursuant to provisions of Ordinance of the Ministry of Economy, Trade and Industry as the amount to be used by said operators of

electric utilities in the relevant notification year, in consideration of the prevalence of generation facilities for voltage regulation that become necessary as a result of having set a Use Target for Electricity from New Energy, etc. and installed Generation Facilities for Electricity from New Energy, etc. based on the amount of electricity supplied by said operators of electric utilities in the fiscal year preceding the notification year (except for the electricity supplied to other operators of electric utilities the same shall apply in Article 10); the same shall apply hereinafter), which they plan to use for the one year period from April 1 of the relevant year to March 31 of the following year (hereinafter referred to as the "Notification Year"), and other matters as prescribed by Ordinance of the Ministry of Economy, Trade and Industry.

- (2) With regard to the application of the provisions of the preceding paragraph to operators of electric utilities who began supplying electricity during the period from April 1 to June 1 of the Notification Year, the phrase "from April 1" in the preceding paragraph shall be deemed to be replaced with "from the day on which they began supplying electricity," and the phrase "the amount of electricity supplied by said operators of electric utilities in the fiscal year preceding the Notification Year" shall be deemed to be replaced with "the estimated amount of electricity supplied by said operators of electric utilities in the Notification Year".

Article 5 Operators of electric utilities shall use the Standard Amount of Use or a greater amount (or the revised amount, if the amount is changed pursuant to the provisions of the next Article and Article 7; the same shall apply in Article 8) of Electricity from New Energy, etc. in each fiscal year, pursuant to the provisions of Ordinance of the Ministry of Economy, Trade and Industry.

(Changes to the Standard Amount of Use)

Article 6 If an operator of electric utility uses Electricity from New Energy, etc. in excess of its Standard Amount of Use, another operator of electric utility may reduce its Standard Amount of Use by the amount of Electricity from New Energy, etc. equivalent to such excess with the consent of the operator of electric utility in excess, and upon approval by the Minister of Economy, Trade and Industry, pursuant to Ordinance of the Ministry of Economy, Trade and Industry.

Article 7 (1) The Minister of Economy, Trade and Industry may reduce Standard Amount of Use obligated to operator of electric utility in the Notification Year, when requested by an operator of electric utility for whom it has become difficult to use the amount of Electricity from New Energy, etc. equivalent to the Standard Amount of Use pursuant to the provisions of Article 5, due to

unavoidable circumstances, such as disasters and other similar causes.

- (2) If the Standard Amount of Use is reduced pursuant to the provisions of the preceding paragraph, the Minister of Economy, Trade and Industry shall notify the relevant operators of electric utilities to that effect.

(Recommendations and Orders)

Article 8 (1) If the amount of Electricity from New Energy, etc. used by an operator of electric utility does not reach the Standard Amount of Use and when there are no justifiable grounds therefor, the Minister of Economy, Trade and Industry may recommend that said the operator of electric utility use the Electricity from New Energy, etc. pursuant to the provisions of Article 5 and specify a time limit therefor.

- (2) In the case prescribed in the preceding paragraph, if the extent to which the Standard Amount of Use of Electricity from New Energy, etc. has not been reached is found to fall below the standard specified by Ordinance of the Ministry of Economy, Trade and Industry, the Minister of Economy, Trade and Industry may order said the operator of electric utility to use the Electricity from New Energy, etc. pursuant to the provisions of Article 5 and specify a time limit therefor.

(Certification of Generation Facilities for Electricity from New Energy, etc.)

Article 9 (1) A person who generates or intends to generate electricity using a facility that converts New Energy, etc. into electricity may receive certification from the Minister of Economy, Trade and Industry pursuant to the provisions of Ordinance of the Ministry of Economy, Trade and Industry through conformity with both of the following items:

- (i) the facility for converting New Energy, etc. into electricity that is installed or planned for installation by the person who generates or intends to generate said electricity, conforms to the standards prescribed by Ordinance of the Ministry of Economy, Trade and Industry; and
- (ii) the method of generating electricity conforms to the standards prescribed by the Ordinance of Ministry of Economy, Trade and Industry.

- (2) When the generation of electricity pertaining to an application for the certification in the preceding paragraph is found to conform to all of the items in the preceding paragraph, the Minister of Economy, Trade and Industry shall issue certification pursuant to said paragraph.
- (3) When the Minister of Economy, Trade and Industry intends to issue certification pursuant to paragraph (1) concerning a Generation Facility for Electricity from New Energy, etc., he/she shall consult with the Minister of Agriculture, Forestry and Fisheries, the Minister of Land, Infrastructure and Transport, or the Minister of Environment in advance, pursuant to the

provisions of Cabinet Order,.

- (4) The Minister of Economy, Trade and Industry may revoke certification pursuant to paragraph (1) when the generation of electricity pertaining to said certification is found to no longer conform to any individual item under said paragraph.
- (5) In addition to the matters prescribed in each of the preceding paragraphs, other matters necessary for certification pursuant to paragraph (1) shall be prescribed by Cabinet Order.

(Notification of the Amount of Electricity Supplied)

Article 10 Pursuant to the Ordinance of the Ministry of Economy, Trade and Industry, operators of electric utilities shall notify the Minister of Economy, Trade and Industry by June 1 of each year of the amount of electricity supplied from April 1 of the preceding year to March 31 of the current year, and of other matters specified by Ordinance of the Ministry of Economy, Trade and Industry.

(Entries on the Books)

Article 11 Pursuant to the provisions of Ordinance of the Ministry of Economy, Trade and Industry, operators of electric utilities and persons who have received certification pursuant to paragraph (1) of Article 9 shall prepare and use account books and enter the amount of Electricity from New Energy, etc. generated and other matters specified by Ordinance of the Ministry of Economy, Trade and Industry therein, and said books shall be retained.

(Collection of Reports and On-Site Inspections)

- Article 12 (1) The Minister of Economy, Trade and Industry may require operators of electric utilities and persons who have received certification pursuant to paragraph (1) of Article 9 to present reports on their business activities to the extent necessary for the enforcement of this Act.
- (2) The Minister of Economy, Trade and Industry may have his/her officials enter the places of business or offices of operators of electric utilities who have received certification pursuant to paragraph (1) of Article 9, and inspect their books, documents, and other articles to the extent necessary for the enforcement of this Act.
 - (3) The officials who conduct on-site inspections pursuant to the provisions of the preceding paragraph shall carry identification cards and show them to the relevant parties.
 - (4) The authority to conduct on-site inspections pursuant to the provisions of paragraph (2) above shall not be construed as authority to conduct criminal investigations.

(Transitional Measures)

Article 13 When orders are enacted, revised, or cancelled in accordance with the provisions of this Act, necessary transitional measures (including transitional measures relevant to penal provisions) may be taken to the extent deemed reasonably necessary due to the enactment, revision, or cancellation of such orders.

(Delegation of Authority)

Article 14 The matters that are subject to the authority of the Minister of Economy, Trade and Industry pursuant to the provisions of this Act may be delegated to a Director-General of a Regional Bureau of Economy, Trade and Industry pursuant to Cabinet Order.

(Penal Provisions)

Article 15 Persons in violation of an order as prescribed in paragraph (2) of Article 8, shall be punished by a fine of not more than one million yen.

Article 16 Persons who fall under any of the following items shall be punished by a fine of not more than 300,000 yen:

- (i) persons who have failed to provide notification as prescribed in Article 4 or Article 10, or persons who have provided fraudulent notification;
- (ii) persons who have failed to prepare their books or who have failed to make entries in their books in violation of Article 11, persons who have made false entries, or persons who have failed to retain their books;
- (iii) persons who have failed to make reports as prescribed in paragraph (1) of Article 12 or persons who have made false reports or persons who have refused, obstructed, or avoided an inspection as prescribed in paragraph (2) of the same Article.

Article 17 When a representative of a juridical person, a juridical person, or an agent, employee, or and other worker of an individual person violates the preceding two Articles with regard to the business affairs of said juridical person or individual, not only shall the offender be punished, but said juridical person or individual shall also be punished by the penalty prescribed in the relevant Article.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall come into effect as from the day specified by Cabinet Order within a period not exceeding six months from the day of promulgation.

However, the provisions of Article 3 through Article 8, Article 10 through Article 12, Article 15, and Article 16 shall come into force as of April 1, 2003 (limited to the part pertaining to operators of electric utilities with regard to Article 11, Article 12, and Article 16).

(Transitional Measures)

Article 2 (1) The Minister of Economy, Trade and Industry may set and announce the Use Target for Electricity from New Energy, etc. before the enforcement of the provisions of Article 3, in accordance with the example provided therein.

(2) A Use Target for Electricity from New Energy, etc. set pursuant to the provisions of the preceding paragraph shall be deemed to have been prescribed pursuant to the provisions of paragraph (1) of Article 3 on the day of enforcement of Article 3.

Article 3 Among persons who are actually operators of electric utilities at the time of enforcement of the provisions of Article 5, when the Minister of Economy, Trade and Industry deems it to be very difficult for an operator of electric utility to use New Energy Electricity pursuant to the provisions of Article 5, the Standard Amount of Use as specified in the provisions of Article 4 shall be the amount obtained by adjusting the amount calculated pursuant to said Article using a method specified by the Minister of Economy, Trade and Industry in consideration of the status of use and other circumstances pertaining to Electricity from New Energy, etc. in the seven-year period after the enforcement of Article 5, irrespective of the provisions of Article 4.

(Delegation to Cabinet Order)

Article 4 In addition to the transitional measures prescribed in Article 2 above, other transitional measures necessary for the enforcement of this Act shall be prescribed by Cabinet Order.

(Review)

Article 5 When three years have elapsed from the enforcement of this Act, the government shall, while taking into consideration the status of enforcement hereof, review the provisions of this Act and take any necessary measures based on the results of said review.