



Taiwan's Bureau of Energy Reconsiders Tariff Cut

Taiwan's Bureau of Energy has reconsidered its preliminary decision to cut the 2018 offshore wind feed-in tariff by almost 13%, deciding instead to drop it only by 5.71%, to TWD 5.5160 per kWh. The Bureau has also restored the two-tier tariff option, and has increased the number of hours per year for which the feed-in tariff will be paid.

Taiwan's burgeoning offshore wind industry was shaken by a number of recent developments centered on the proposal by the Bureau of Energy (BOE) in Taiwan's Ministry of Economic Affairs (MOEA) to reduce the feed-in tariff (FIT) for the year 2019. The FIT is the price at which Taiwan's electricity distribution utility, Taiwan Power Company (Taipower), purchases electricity generated by independent power producers, including offshore wind farms. The FIT is set by BOE regulation and fixed in the power purchase agreement (PPA) executed between Taipower and each producer.

The BOE released its initial proposal on November 29, 2018, called the Draft Order Establishing the Feed-in Tariffs and Relevant Formula for the Year 2019. This draft proposed to reduce the FIT for electricity generated by offshore wind from TWD 5.8498 to TWD 5.106 per kWh, a cut of about 13%. This proposal would also have eliminated the possibility to



Photo by Waldemar Brandt/Unsplash

elect a two-tier tariff option, under which a producer receives a higher tariff during its first ten years of production in exchange for accepting a lower tariff during the second ten years, and would have placed a cap on the total amount of electricity purchased from wind-energy sources of 3,600 operating hours per year. In addition to reducing the 2018 FIT by only 5.71%, the BOE has now reinstated the two-tier option at TWD 6.2795 and TWD 4.1422 for the two decades of production and eliminated the purchase cap, substituting instead a sliding scale of reduced prices for production of 4,200 hours or more per year.

The BOE's initial proposal had created significant concerns among developers. Because the proposal established a cut-off of January 2, 2019 for signing a PPA and securing

the higher 2018 FIT for their projects, wind energy developers in December rushed to fulfill the prerequisites to execute a PPA before the rate would change. A prerequisite for executing a PPA is for a developer to have obtained a permit under Article 13 of the Electricity Act “to build or expand the infrastructure” (commonly called an “Establishment Permit”). The Establishment Permit in turn has several prerequisites, including an approval letter from the local government of the region in which the generating project would be constructed.

Most offshore wind farms are to be built in coastal waters near Changhua County, south of Taichung City, and so are subject to Changhua County’s jurisdiction. Delays in verifying that the Changhua County local government had granted approval letters to the offshore projects planned for its waters resulted in several projects missing the January 2, 2019 deadline for obtaining Establishment Permits and executing PPAs with the 2018 FIT. One of the developers who missed this deadline, Ørsted A/S, later announced it would suspend development work in Taiwan unless the 2019 FIT was increased. Other developers and local suppliers expressed similar concern about the price cut. In light of this industry backlash, the MOEA hosted several further discussions about how the 2019 FIT proposal might be improved. The MOEA also stated that it hopes Ørsted would resume its projects in light of the final 2019 FIT, but that Ørsted’s decision would not sink Taiwan’s overall plan to promote offshore wind or renewable energy generally.

To add to these complications, certain Taiwan lawmakers were disturbed by the difference between the 2018 FIT and the prices developers offered during an auction last year. The rates offered at auction were substantially lower than the FIT, because the electricity sold at the auction rates would be generated after earlier project development had already created necessary infrastructure and supply-chain improvements that would facilitate the lower prices, as explained by industry representatives. Nevertheless, officials from Taiwan’s Kuomintang party lodged a complaint with Taiwan’s government oversight branch, the Control Yuan, alleging impropriety in the offshore wind capacity allocation process.

The Control Yuan released a report of its investigation on December 10, 2018. It reached four conclusions: (1) the regulations creating the capacity allocation process were not adopted through proper legal procedure; (2) the FIT set by the BOE was too high; (3) the MOEA’s plans for supply-chain localization were too hasty; and (4) the requirement of a 10% bond was not enough to guarantee that developers would localize their supply chains in compliance with the requirements. The Control Yuan requested that the MOEA implement corrective measures in response to its report by mid-February. Official response from the MOEA to the Control Yuan’s report is still pending.

Authors:



Paul J. CASSINGHAM
paul.cassingham@eiger.law



Nathan SNYDER
nathan.snyder@eiger.law

DISCLAIMER

This publication is not intended to provide accurate information in regard to the subject matter covered. Readers entering into transaction on the basis of such information should seek additional, in-depth services of a competent professional advisor. Eiger, the author, consultant or general editor of this publication expressly disclaim all and any liability and responsibility to any person, whether a future client or mere reader of this publication or not, in respect of anything and of the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this publication. This work is licensed under the Creative Commons Attribution-ShareAlike 3.0 Unported License. To view a copy of this license, please visit <http://creativecommons.org/licenses/by-sa/3.0/>.