

Cabinet approves Renewable Energy Act amendment bill

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Legislative background

On 25 February 2020 Cabinet approved the Proposal to Amend the Electricity Business Act for the Purposes of Establishing a Resilient and Sustainable Electricity System, a comprehensive legislative proposal that includes, among other things, a partial amendment to the Act on Special Measures Concerning the Procurement of Renewable Energy-Sourced Electricity by Electric Utilities (Renewable Energy Act). The bill, currently under deliberation in the ordinary session of the National Diet, will be promulgated into law once adopted with the effective date of 1 April 2022.

Introduction of FIP programme

Under the current feed-in tariff (FIT) programme, the purchase price for the end-user of electricity is determined at a fixed rate regardless of the variation in market prices. In order to encourage market-oriented behaviours and establish the predictability of return on investment for renewable energy developers, the bill introduces the feed-in premium (FIP) programme. Under this FIP programme, renewable energy developers developing projects after April 2022 may receive a certain premium on top of the market price for the electricity that they generate. The FIP programme introduces flexibility to renewable electricity pricing based on the market price of electricity.

Initially, this FIP programme will be provided only to certain categories of renewable energy projects with a promising, competitive outlook. This includes wind power and large-scale solar power projects. Exact details of the projects that would benefit from the FIP programme will be discussed by the Procurement Price Calculation Committee under the Agency for Natural Resources and Energy Division of the Ministry of Economy Trade and Industry (METI) and determined by the minister of economy trade and industry, based on the committee's recommendation.

Grid enhancement to utilise renewable energy

With the prospect of large-scale renewable energy projects being implemented into the grid, the government will establish a system to request that renewable energy projects bear a certain part of the cost required to enhance the grid, including inter-regional interconnection lines through a national levy system. This grid enhancement cost was previously borne by the regional utilities.

Under the current regime, the grid connection is developed through a pull-type method. Under this method, the utilities connect projects to the grid on an *ad hoc* basis, resulting in costly and inefficient interconnection development. The bill includes transitioning from pull-type to push-type grid management. Pursuant to the push-type method, an external third-party agency – the Organisation for Cross-Regional Coordination of Transmission Operators (OCCTO) – will first consider the potential grid load and establish an inter-regional grid development plan before developers can request connection to the grid. This interconnection grid development plan prepared by the OCCTO will be submitted to the government for implementation and the utilities will develop the transmission networks based thereon.

Mandatory decommissioning cost reserves

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To address public concerns over the potential overflow and insufficient capacity to decommission solar power facilities, solar power developers will have to establish an external reserve to fund the costs for the eventual decommissioning once the FIT period ends. The scope of this requirement has yet to be determined. However, the government is considering starting by applying this obligation only to solar projects with an output of more than 10kW.

Under the new rule, a portion of the income generated by solar power electricity sales will be withheld and reserved by the OCCTO as decommissioning costs. The applicable amount to be reserved will be determined based on the FIT price per kWh. Any shortage in the decommissioning cost, even after applying the external decommissioning cost reserve established by the OCCTO, must be separately secured and borne by the project owners. This decommissioning reserve will need to be maintained from 10 years prior to the end of the applicable FIT period and the funds will be collected on a monthly basis in line with the distribution of the FIT payment under the current FIT regime. The reserve will be managed by the OCCTO and returned to the project owners if they can provide documentary evidence that they can decommission their project appropriately.

However, the government is considering exempting projects from this external decommissioning fee reserve requirement if they satisfy certain stringent requirements, such as providing evidence that the project is capable of long-term power generation or that the project has secured sufficient financing to fund its decommissioning.

FIT certificate expiration

The bill proposes measures that would terminate the FIT certificate of developers which fail to commence operations within a specified period following the receipt of the FIT certificate. Since the establishment of the FIT programme in July 2012, the FIT certificate and commercial operation of solar power projects have increased rapidly. However, at the same time, a significant number of projects remain dormant and have not commenced commercial operation.

The amended Renewable Energy Act, which came into effect in April 2017, addressed the dormant projects to some extent by cancelling the FIT certificate of projects that had not entered into a grid connection agreement by the end of March 2017. Further, projects that entered into a grid connection agreement after August 2016 were subjected to the three-year rule, whereby developers had to commence operation of the projects within three years from the date of the project's FIT certificate. For any project that commences operation after this three-year period, the 20 years FIT period will be reduced by the duration of the delay. According to the 9 September 2019 report published by a subcommittee under the Agency for Natural Resources and Energy Division of METI, FIT certificates of projects with a total output of approximately 20.7 million kW were cancelled due to the 2017 measure. However, the amendment did not address a significant number of projects that entered into a grid connection agreement within the deadline but remain dormant.

The bill aims to further clarify that the subsidies provided under the FIT regime will not be provided to projects that do not commence operations for an extended period after the FIT certificate. Under the bill, the FIT certificate (including the certificate of changes to the business plan) will expire if, from the date of the FIT certificate, the developers fail to commence operation within a period specified under an ordinance to be enacted by METI.

This ordinance will be introduced before the effective date of the bill, which is expected to come into effect in April 2022. The government is planning to provide a grace period to commence commercial operation.

Comment

The new FIT programme will be available from April 2022, so projects with existing FIT certificates will not be affected. In contrast, the mandatory decommissioning cost reserve will apply even to projects that are currently operational, and project owners will need to assess the financial impact of the new measures. Likewise, developers should be wary of the government's discussions of the grace period and the new FIT certificate expiration rule.

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