

DECIDES:

Chapter I

## GENERAL PROVISIONS

**Article 1.** Scope of regulation and subjects of application

1. This Decision provides the mechanism to support the development of wind power projects in Vietnam.

2. Subject to this Decision are organizations engaged in electricity activities related to the development of wind power projects in Vietnam.

**Article 2.** Interpretation of terms

In this Decree, the terms below are construed as follows:

1. Electricity purchaser means the Electricity of Vietnam (EVN) Group or an empowered unit of the Group.

2. Electricity seller means a business generating and selling electricity from wind power projects.

3. Wind farm means a complete complex of wind turbines, generators, complete equipment and other construction structures which are powered by wind energy to generate electricity.

4. A wind power project consists of one or more than one wind farm.

5. On-grid wind power project means a wind power project built and connected to the national power grid to supply part or the whole of its generated electricity output.

6. Connection point means a position in which the transmission line of the electricity seller is connected to the electricity system of the electricity purchaser.

**THE PRIME MINISTER**

**Decision No. 37/2011/QĐ-TTg of June 29, 2011, providing the mechanism to support the development of wind power projects in Vietnam**

**THE PRIME MINISTER**

*Pursuant to the December 25, 2001 Law on Organization of the Government;*

*Pursuant to the December 3, 2004 Law on Electricity;*

*Pursuant to the November 29, 2005 Law on Investment;*

*Pursuant to the November 26, 2003 Law on Construction;*

*Pursuant to the December 16, 2002 Law on the State Budget;*

*At the proposal of the Minister of Industry and Trade,*

7. Electricity delivery point means a place at which the output of electricity sold by the electricity seller is metered.

8. Off-grid wind power project means a wind power project built to supply the whole of its electricity output to consuming households in its location and not connected to the national power grid.

9. Wind power project investor means an institution investing in wind power projects under Vietnamese law.

10. Model electricity purchase and sale contract for wind power projects means a electricity purchase and sale contract promulgated by the Ministry of Industry and Trade for application in transactions on purchase and sale of electricity generated by on-grid wind power projects between electricity sellers and purchasers.

11. Main works of a wind farm include wind towers, turbines, generators and transformer stations.

## Chapter II

### WIND POWER PLANNING AND DEVELOPMENT

#### Article 3. Wind power development plans

1. Wind power development plans include national and provincial wind power development plans. Wind power development plans serve as a basis for wind power development investment and may be adjusted in line with wind potential researches and assessments in each period.

2. The national wind power development plan and local wind power development plans shall be elaborated only once for the 2011-2020

period with a vision toward 2030, and may be adjusted and supplemented when necessary. For subsequent planning periods, wind power development plans shall be intergrated into provincial and national electric power development plans.

#### Article 4. Elaboration, approval and public notification of wind power development plans

1. The Ministry of Industry and Trade shall elaborate and submit the national wind power development plan to the Prime Minister for approval; publicly notify and guide, monitor and inspect the implementation of the approved wind power development plan.

2. People's Committees of provinces and centrally run cities (below collectively referred to as provincial-level People's Committees) which have wind power development potential shall elaborate and submit provincial-level wind power development plans to the Minister of Industry and Trade for approval.

3. The public notification and adjustment of plans comply with current regulations.

4. Principal contents of wind power development plans:

a/ The national wind power development plan has the following principal contents:

- Wind potential of localities;
- List of wind power projects;
- Orientations for connection of wind power projects to the national power grid.

b/ A provincial wind power development plan has the following principal contents:

- Wind power potential of the province;
- Areas and boundaries of areas in which wind power projects are to be developed;

- List of wind power projects;
- Capacity of each wind power project and plan on connection to the national power grid.

5. Pending approval of wind power plans, investment in wind power projects must be approved by the Prime Minister.

6. The Ministry of Industry and Trade shall specify contents of wind power plans and the order of and procedures for their elaboration, appraisal and approval.

**Article 5.** Funds for wind power development planning

1. The central budget shall be allocated for the elaboration, appraisal, public notification and adjustment of the national wind power development plan.

2. Provincial-level budgets shall be allocated for the elaboration, appraisal, public notification and adjustment of local wind power development plans.

3. The raising of other lawful funding sources for the elaboration of wind power development plans is encouraged.

**Article 6.** Investment in construction of wind power projects

1. Investment in the construction of wind power projects must be in line with approved wind power development plans and electric power development plans at all levels.

2. For wind power projects not yet included in the lists of the approved national wind power development plan and national electric power development plan, investors shall compile and send dossiers of request for plan supplementation to the Ministry of Industry and Trade for appraisal and submission to the Prime Minister for

consideration and decision.

3. Investment in the construction of wind power projects shall be made under the law on management of investment in work construction.

**Article 7.** Connection of wind power projects to power systems and regulation of operation of wind power plants

1. The connection of wind power projects to the national power grid must be in line with approved electric power development plans. Connection points shall be agreed upon by the electricity seller and electricity purchaser on the principle that the electricity seller is responsible for investing in the electricity transmission line to the nearest existing point of connection to the national power grid indicated in the provincial-level electric power development plan. In case the point of connection to the national power grid is under an unimplemented investment project on a new power grid, the electricity seller shall reach agreement with the electricity purchaser on synchronizing the progress of investment in wind power projects and in investment projects on power grid development. In case no agreement on connection point can be reached, the electricity seller shall submit it to the Ministry of Industry and Trade for consideration and decision.

2. Investors of wind power projects shall invest, operate and maintain transmission lines and transformer stations for voltage increase (if any) from power plants of electricity sellers to connection points indicated in connection agreements with electricity purchasers.

3. Depending on connection voltages, electricity distribution units or electricity transmission units shall invest in electricity transmission lines from points of connection to

the national power grid under approved electric power development plans and sign agreements on connection with investors of wind power projects.

4. After completing investment in and putting into takeover test and commercial operation wind power plants, units regulating power systems and operating the power market shall operate wind power plants at full capacity to generate electricity in suitability with the wind regime in the plants' location.

**Article 8.** Commencement of construction of wind farms

Investors may commence the construction of wind farms only after obtaining investment certificates and having electricity purchase and sale contracts signed with electricity purchasers, connection agreements with power distribution or transmission units and reports on wind-measuring data during a period of at least 12 months.

**Article 9.** Termination of implementation of projects

Past 12 months after obtaining investment certificates, if investors fail to commence the construction of main works of their wind power projects, provincial-level People's Committees shall consider revoking these investment certificates and report such to a competent state agency for assignment of projects to other investors, unless these investors have plausible reasons and obtain competent authorities' consent to suspension or rescheduling of project implementation.

**Article 10.** Reporting regime

1. Within 5 working days after obtaining an investment certificate, an investor shall send

copies of the notarized investment certificate to the Ministry of Industry and Trade for monitoring and management.

2. During the construction of a wind power project, before the 15<sup>th</sup> day of the first month of a quarter, the investor shall report on the project implementation in the last quarter and the implementation plan for the quarter. Before January 15 each year, the investor shall report on the project implementation in the last year and the implementation plan for the year to the Ministry of Industry and Trade for implementation management and supervision.

### Chapter III

#### MECHANISM TO SUPPORT DEVELOPMENT OF WIND POWER PROJECTS

**Article 11.** Responsibility to purchase electricity from wind power projects

1. Electricity purchasers shall purchase the whole electricity output generated by on-grid wind power plants in localities under their management.

2. Electricity purchase and sale shall be effected under electricity purchase and sale contracts made according to the model contract applicable to on-grid wind power projects promulgated by the Ministry of Industry and Trade. The model electricity purchase and sale contract contains the following principal details:

a/ The contract term of twenty (20) years from the date of commercial operation commencement. The electricity seller may extend the contract term or sign a new contract with the electricity purchaser under current regulations.

b/ The base electricity purchase price and the principle for adjustment of power sale prices during the contract term.

c/ The agreement on connection, metering and operation of the wind power plant.

d/ The agreement on electricity billing and payment.

**Article 12.** Incentives related to investment capital, taxes and charges

1. Raising of investment capital:

a/ Investors may raise capital in lawful forms from domestic or foreign organizations and individuals for investment in wind power projects.

b/ Wind power projects may enjoy incentives under current regulations on the State's investment credit.

2. Import duty: Wind power projects are exempt from import duty for goods imported for creation of their fixed assets, domestically unavailable materials, supplies and semi-finished products imported for their production under the Law on Export Duty and Import Duty and current regulations on export duty and import duty.

3. Enterprise income tax: Enterprise income tax rates, exemption or reduction for wind power projects are the same as those for projects in sectors eligible for special investment incentives specified in the Law on Investment, the Law on Enterprise Income Tax and documents guiding these laws.

**Article 13.** Land incentives

1. Wind power projects, transmission lines and transformer stations for connection to the national power grid are eligible for land use levy and land rent exemption or reduction under

current regulations applicable to projects in sectors eligible for special investment incentives.

2. Based on approved land use plans, provincial-level People's Committees shall allocate land to investors for implementing wind power projects. The payment of compensations and provision of supports for ground clearance comply with the current land law.

**Article 14.** Electricity price subsidy for on-grid wind power projects

1. Electricity purchasers shall purchase the whole electricity output of wind power projects at the price of VND 1,614/kWh (approximately 7.8 US cents/kWh, exclusive of value-added tax) at electricity delivery points. The electricity purchase price shall be adjusted according to the VND/USD exchange rate.

2. Through the Vietnam Environmental Protection Fund, the State provides an electricity price subsidy of VND 207/kWh (approximately 1 US cent/kWh) for electricity purchasers for the whole electricity output of wind power plants.

3. The Ministry of Industry and Trade shall monitor and propose adjustments to the electricity purchase price at delivery points and the electricity price subsidy to the Prime Minister for consideration and decision on the principle of gradually reducing and eventually abolishing the price subsidy and applying the market electricity sale price.

4. Wind power projects eligible for the price subsidy provided herein are ineligible for the mechanism of price subsidy for their electricity output under other current regulations.

5. Wind power projects are subject to the clean development mechanism under current regulations.

**Article 15.** Incentives and supports for off-grid wind power projects

1. Off-grid wind power projects are entitled to the incentives and supports provided in Articles 12 and 13 of this Decision.

2. Investors shall elaborate electricity price schemes and estimate total state budget support and submit them to the Ministry of Industry and Trade for appraisal and reporting to the Prime Minister for approval.

#### Chapter IV

#### ORGANIZATION OF IMPLEMENTATION

**Article 16.** Responsibilities of ministries and localities for wind power projects

1. The Ministry of Industry and Trade shall:

a/ Organize and guide, and coordinate with provincial-level People's Committees in inspecting and supervising, the implementation of this Decision.

b/ Promulgate the model electricity purchase and sale contract applicable to wind power projects.

c/ Elaborate and promulgate technical standards on wind power technology.

2. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Industry and Trade and the Ministry of Natural Resources and Environment in, promulgating the financial mechanism for supports from the Vietnam Environmental Protection Fund in accordance with the Law on the State Budget.

3. Provincial-level People's Committees shall:

a/ Adopt mechanisms to support and encourage investors in carrying out ground

clearance, building infrastructure and developing human resources for investment in and implementation of wind power projects.

b/ Perform the state management of wind power projects in their localities.

c/ Monitor, supervise and inspect the implementation of wind power projects in their localities according to their competence.

**Article 17.** Effect

This Decision takes effect on August 20, 2011.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and heads of agencies, units and organizations related to the development of wind power projects in Vietnam shall implement this Decision.-

*Prime Minister*

NGUYEN TAN DUNG