

Outline of Japan's FIT Scheme for Renewable Electric Energy

For the purpose of promoting usage of solar and other renewable energy sources, the Japanese Diet passed the Act on Special Measures concerning the Procurement of Renewable Electric Energy by Operators of Electric Utilities (Act No. 108 of 2011, the “**Act**”) in August 2011. The Act envisages introducing a Feed-In-Tariff (“**FIT**”) scheme to oblige electric utility operators to purchase electricity generated from five renewable energy sources - photovoltaic (PV), wind, hydro, geothermal and biomass, at a fixed price and for a certain period of time. The FIT scheme will commence on July 1, 2012.

The Act offers an outline of the FIT scheme and other relevant matters, with more details to follow in the subordinate regulations. As of May 16 2012, the Ministry of Economy, Trade and Industry of Japan (“**METI**”) published a draft outline of the relevant subordinate regulations (the “**Draft Subordinate Regulations**”) and sought public comment by June 1, 2012. This newsletter describes the outline of the Act and several key points proposed by METI under the Draft Subordinate Regulations.

1. Types of energy

The FIT scheme applies to PV, wind, small and medium scale hydro, geothermal and biomass generated electricity. In respect of the PV sources, the FIT scheme is expected to apply only to electric power facilities which generate 10 kW or more. The electricity generated by other PV facilities, which are mainly smaller units for residences, are expected to be purchased under the excess electricity purchase scheme, which is intended to guarantee the purchase of electricity exceeding the consumption of a supplier. The Act allows other renewable energy sources (except for fossil fuel energy sources) to be included in the future through the subordinate regulations.

The renewable energy supplier will only be eligible for benefits under the Act if he/she obtains approval from METI for his/her renewable energy generating facility by satisfying certain requirements. The Draft Subordinate Regulations describe the proposed requirements that, among other things, (i) the facilities must generate electricity stably and efficiently during a fixed purchase term (in connection with this requirement, the Draft Subordinate Regulations require that a supplier conducts sufficient maintenance for the facility to work stably), (ii) electricity supplied can be measured and calculated transparently and appropriately and (iii) the specifications of the facility are precisely detailed (such as, for example, the name of the manufacturer and the model number of the facility). The supplier may apply for approval of their facility before the Act takes effect. However, as the detailed requirements for such approval will only be given in the subordinate regulations, suppliers will have to wait to apply for approval until the Draft Subordinate Regulations are finalized and take effect.

It is important to note that renewable energy suppliers which produce, or intend to produce, electricity with approved facilities, will be subject to certain supervision by METI. Indeed, METI has rights under the Act (i) to request from suppliers a report with respect to status of

their business, and (ii) to enter into, and inspect, the approved facility and offices of the suppliers.

2. Obligations to connect and purchase

The Act obliges electric utility operators, upon request from renewable energy suppliers, to allow access to their grid connection and to purchase electricity generated by renewable energy suppliers at the rate and period of time set by METI, with certain exemptions to be specified by the subordinate regulations. For example, the Draft Subordinate Regulations mention that electric utility operators will be exempt from an obligation to allow access to the grid if suppliers do not agree to cooperate with electric utility operators concerning the operation of the grid. Upon request from the electric utility operators in case of an oversupply of electricity, the suppliers would be expected to suppress their electricity supply.

3. Price and term of the purchase

The purchase price of renewable energy is one of the key issues under the FIT scheme. The Act provides that METI will determine the price and term of the purchase of electricity per kW, by taking into consideration: (i) costs that suppliers normally require in order to efficiently produce renewable electric energy; (ii) the expected quantities of renewable energy produced by suppliers; (iii) the overall situation in Japan concerning the supply of renewable electric energy; and (iv) the profitability to be maintained by renewable energy suppliers and other factors. Also in determining the price, METI needs to respect an opinion issued by the specially organized committee named "Procurement Price Calculation Committee (the **"PPC Committee"**)". The purchase price and term which would be applicable to the future project will be reviewed and revised annually or, if necessary, semi-annually by METI. The Act requires that, among these factors, METI shall place particular concern on the profitability of the renewable energy suppliers during the first 3 years from the commencement of the FIT scheme. Therefore, it is highly expected that the purchase price would be tended to be less than the range applied to the initial 3 years.

The above mentioned PPC Committee consists of five members who are all appointed by METI with approval of the Diet. The PPC Committee had several meetings during March and April 2012 and issued its opinion on April 27 on the prices and terms. Based on its opinion, METI proposed a purchase price and term applicable to a period from July 1, 2012 to May 31, 2013. METI classifies five energy sources (PV, wind, hydro, geothermal and biomass) into a total of 14 price categories. The purchase price of electricity generated by a PV facility with 10 kW capacity or more, for example, is set at 42 yen/kWh including tax. That of wind facility with 20 kW capacity or more is set at 23.1 yen/kWh including tax. The purchase period for all energy sources will be 20 years, except for a PV facility with less than 10 kW capacity (in which case the purchase period will be 10 years) and a geothermal facility (15 years).

4. Cost surcharge

The Act allows electric utility operators to include a surcharge into electricity bills of end-users in proportion to the electricity they use. This means that operators may pass costs of purchasing renewable electric energy on to end-users. The calculation of the surcharge amount will be determined by METI annually.

METI proposed the outline of a calculation in the Draft Subordinate Regulations. It mentioned that the surcharge amount for year 2012 is estimated approximately 70 yen to 100 yen per month for normal household use, calculated as an electricity bill of around 7,000 yen a month.

The Act will take effect on July 1, 2012 and the FIT scheme is scheduled to launch at the same time. As mentioned above, METI determines the purchase price of renewable electric energy during the first three years of this scheme by placing importance on the profitability of renewable energy suppliers. Thus, renewable energy suppliers and other relevant parties, who are to join the Japanese renewable energy market, have to pay close attention to any further developments and be well prepared for the launch of new FIT scheme in Japan.

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