



# Vietnam's Electricity Law 2024

Legal Update | January 2025

The Vietnamese National Assembly adopted the new electricity law No. 61/2024/QH15 on 30 November 2024 which will take effect on 1 February 2025 (**Electricity Law 2024**), replacing the current electricity law of 2004 (as amended from time to time). This law represents a major turning point and a tremendous advancement for the Vietnamese power industry.

Electricity Law 2024 brings with it new and significantly more expansive areas of application that are not covered or governed by the current electricity law of 2004. These include the development of renewable energy including offshore wind power, and new energy sources; electricity services charges prepared for the two-component electricity pricing; emergency power projects; the principles for investment approval and the selection of investors for power projects. Furthermore, the relaunch of nuclear power development is also regulated as the Vietnamese Government's monopoly. As a result, we anticipate that there will be numerous new guiding regulations outlining and directing the new Electricity Law 2024.

This legal update focuses on the key advancements of the general legislative framework for the development of power generation projects using various energy sources.

### Renewable Energy and New Energy

The new law expands the definition of renewable energy to include electricity generated from solar energy; wind energy; ocean energy including tides, waves, and ocean currents; geothermal energy; hydro power; biomass energy comprising biofuels and other forms of energy derived from plants; waste-to-energy; and other forms of renewable energy as stipulated. The following would be among the key principles for the development of renewable and new energy:

- (a) Development of renewable energy power projects to be synchronous with the available and ready electricity facilities and infrastructure; and priority to develop large-scale power generation projects to form power plants clusters or renewable energy centres;
- (b) Encouragement of the development of wind and solar power integrated to and associated with (battery) energy storage systems (**ESS**) or the production of green hydrogen, green ammonia which are increasingly becoming significant energy carriers and new energy sources. It is emphasised that the development of wind and power projects connected to the national power grid must be in line with the approved national or provincial power master plan in terms of the overall output capacity (including the ESS capacity); and
- (c) Shift in power structure of low carbon and greenhouse gas (**GHG**) reduction.

Further guidance on the development of ESS, new energy production projects; the establishment and operation of a transparent carbon credit market and/or carbon trade exchange; the trading of GHG emissions quotas, etc., would be necessary to carry out and actualise the aforementioned objectives in the development of renewable and new energy.

Some promoted incentives outlined in the new law will help to implement and integrate the development of new energy sources. These incentives include: (i) exemption or reduction of sea area use levy; (ii) exemption or reduction of land use levies and land rentals; and (iii) minimum long-term contracted electricity output for projects feeding electricity into the national power system.<sup>1</sup> The investment and development of offshore wind power plants also benefits from all these advantages.

### Offshore Wind Power

According to the new Electricity Law 2024, offshore wind power projects are now clearly defined, with all turbines constructed outside the sea area of six (6) nautical miles from the average lowest low water line to the offshore side over the past few years. The development and investment of offshore wind power projects will serve the following purposes in order of priority: (a) supply of electricity to the national electricity system; (b) self-production and self-consumption, or

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<sup>1</sup> Article 23.2 of the Electricity Law 2024.

production of green hydrogen and green ammonia, or other domestic demand; and (c) export, and production of green hydrogen and green ammonia for export.

The new law facilitates the development of offshore wind power projects by specifically regulating investment incentives, project survey requirements, approval of project investment in-principle, and investor selection mechanism.

### **Investment Incentives**

It is anticipated that more guiding regulations will explicitly outline the investment incentives. Offshore wind power projects would be eligible for the following incentives under the proposed decree guiding the development of renewable and new energy (**the Draft Decree<sup>2</sup>**):

- (a) Exemption from sea area use levies during the construction period; and 50% reduction of levies for 12 years from the commercial operation;
- (b) Exemption from land rentals during the construction period; and
- (c) 80% of minimum long-term contracted electricity output for a maximum of 12 years and within the loan principal repayment period for projects selling electricity to the national power grid.

Please take note that public suggestions and additional updates will still be considered for these regulations.

### **Offshore Wind Power Survey**

Prior to selecting investors for project development, the surveying unit for offshore wind power is supplied by either a 100% State-owned enterprise (**SOE**) designated by the Prime Minister or the investors<sup>3</sup> (who are anticipated to be approved by the Ministry of Industry and Trade (**MOIT**) in accordance with the Draft Decree<sup>4</sup>). It appears that the decision by the competent authority to allot the sea area to the investors in offshore wind power projects is based on the survey unit assignment decision that is anticipated to be issued by the MOIT.<sup>5</sup>

It is currently unclear whether ongoing offshore wind power projects that have obtained survey approvals for wind measurement and/or geological and hydrological investigations issued by the Ministry of Natural Resources and Environment (**MONRE**) during the past few years need to have these approvals replaced with new ones in accordance with the new Electricity Law 2024.

### **Investment In-Principle Approval (IPA)**

The investors or survey units, as previously stated, would propose to obtain the IPA for offshore wind generation projects, which would then serve as the basis for investors selection at a later stage.

An important note before issuing an IPA for an offshore wind generating project is that the responsibility falling to the competent entity responsible for project appraisal is to obtain inputs from different government agencies and ministries.

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<sup>2</sup> Draft Decree regulating a number of articles of the Electricity Law 2024 on the development of renewable energy and new energy, attached to the official letter 2057/DL-NLTT dated 16 December 2024 of the EREA/MOIT.

<sup>3</sup> Article 27.1(b) and Article 28.1(b) of the Electricity Law 2024.

<sup>4</sup> Article 23.4 of the Draft Decree.

<sup>5</sup> Article 25 of the Draft Decree.

## **Investors Selection**

The new Electricity Law 2024 states that the Prime Minister will approve the IPA concurrently with the approval of investors for offshore wind generation projects in the following cases:

- (a) the projects will not be subject to bidding process due to the national security and defence; and
- (b) the projects proposed and developed by the SOE.

Aside from the situation of an IPA being concurrently an approval of project investor as mentioned above, the selection of investors for offshore wind power projects will be subject to bidding process and requirements in accordance with the Bidding Law. This bidding requirement appears however confusing, even though the bidding mechanism for choosing investors for offshore wind power projects is carved out as presented in the general section regarding investors selection for all types of power projects.<sup>6</sup>

The Draft Decree, as a result, would specify the precise bidding rules and criteria, investor's qualifications and prerequisites, and capital restrictions in more details, in conjunction with the general rules and requirements under the Bidding Law and its implementation regulations.

## **Gas-to-Power**

In light of the reduction in the development of new coal-fired power projects and the phase-out of operating projects at the end of their life cycle, gas-to-power projects might be the best alternative and a sustainable source to generate baseload power into the Vietnamese electrical system.

Projects utilising domestic natural gas, specifically from the Block B and Blue Whale fields, would be given priority in order to hasten the development of gas-to-power projects. In addition, the development and investment of LNG<sup>7</sup>-to-power projects is encouraged, especially those related to the shared use of LNG infrastructure, such as LNG terminals and gas pipelines, to lower the costs of power generation.

The Government has been making great efforts to constitute a decree encouraging the establishment of policies for power plants that use imported or domestic natural gas, including the guarantee to consume domestic natural gas, pass-through of fuel price (of which the transportation costs, storage and regasification fees, and distribution charges) to the electricity tariff, and the long-term contracted minimum electricity output. Nevertheless, despite strong suggestions from all pertinent ministries, SOE, private organisations, and investors, this draft decree has not been formed since May 2024.

## **Others Matters**

The law clearly states, unless otherwise specified, that the bidding process is the most widely used policy in selecting investors for all types of power projects (with a broad definition<sup>8</sup>) when there are two or more investors showing interest in a project. The most important bidding criterion is based on industrial criteria of electricity tariff, unless the investors are chosen through a land use rights auction or directly approved.

The responsibility for decommissioning and dismantling the works and plants of renewable and new energy power projects is also clearly required in the event that (i) the life span of construction works as stipulated by the Law on Construction expires, or (ii) the operation term of a project under the Law on Investment ends, unless otherwise extended.

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<sup>6</sup> Article 18.1(dd) and Article 19.1 of the Electricity Law 2024.

<sup>7</sup> LNG means liquefied natural gas.

<sup>8</sup> Articles 4.9 and 4.12 of the Electricity Law 2024.

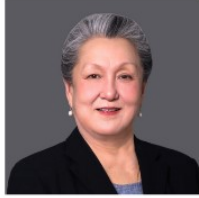
## Overall Observations

The new Electricity Law 2024 serves as a specialised law that governs the power industry as a whole with numerous new aspects that we presented in this legal update, and establishes prevailing terms that govern the precedence application of these electricity regulations over other applicable laws in a variety of energy-related matters. The latter would include the investment in-principle approval competence for transmission line projects, emergency power projects development, investors selection for power projects, and offshore wind power projects development.

In order to implement the new law on a comprehensive basis, the Prime Minister issued Decision No. 1544/QD-TTg dated 11 December 2024, which established the Electricity Law 2024 implementation plan. As such, it is anticipated that there will be a large number of guiding regulations in the form of either legislative documents (i.e., decrees, circulars, or Prime Minister's decisions) or implementation documents (such as decisions of the Prime Minister or the MOIT). It would be noted therefore that the recently issued Decree 80/2024/ND-CP on the mechanism for direct power purchase agreement between a large electricity consumer and a renewable energy generation unit, as well as Decree 135/2024/ND-CP governing the mechanisms and policies encouraging the development of self-produced, self-consumed rooftop solar power, are expected to be completely replaced.

In conclusion, the recently enacted Electricity Law 2024 will considerably support the development of power generation projects utilising a variety of energy sources and open up numerous opportunities for market players. We anticipate that the Vietnamese power market will once again be vibrant when the legal framework is much enhanced.

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