

BRIEFING

GREEK RENEWABLES
SUPPORT SCHEME:
DRAFT LEGISLATION
JULY 2016

- FEED-IN PREMIUMS
- REFERENCE TARIFFS
- EXEMPTIONS FROM FIP SCHEME
- NON-INTERCONNECTED ISLANDS
- COMPETITIVE BIDDING PROCESS FROM 2017



The Greek Ministry of Environment and Energy (the “Ministry”) has now published draft legislation (the “Draft”) on the new support scheme for renewable energy (“RES”) and Co-generation of High-Efficiency Heat and Power (“CHP”), which was open to public consultation until 27 June. The new support scheme follows proposals the Ministry published on 26 February (the “Proposal”)¹.

According to the Draft, the scope of the new legislation implements a new support structure for RES and CHP projects in Greece compatible with the EU Guidelines on State aid for environmental protection and energy 2014 – 2020² “in order to achieve the gradual participation of RES and CHP projects in the electricity market on an optimal cost-benefit basis for society”.

This Briefing outlines the Draft’s key provisions.

Feed-in Premiums

From 1 January 2016, the following shall apply to RES projects that enter into full or trial operation in Greece’s Interconnected System or mainland Grid:

- RES projects will participate in the electricity market and be subject to settlement procedures.

¹ The contents of the Proposal relating to RES projects were set out in our March [briefing](#).

² Communication from the European Commission “Guidelines on State aid for environmental protection and energy 2014-2020” (published in *OJEU* 2014/C 200/01).

- Operating aid will take the form of a feed-in premium ("FiP") (essentially a contract for difference) or, exceptionally, feed-in tariff ("FiT")³ for the electricity generated and absorbed by the Interconnected System and mainland Grid.
- The FiP, which is calculated as the difference between the Special Market Price⁴ and the applicable Reference Tariff ("RT")⁵, will be paid monthly on the basis of a Feed-in Premium operating aid Contract ("FiPC")⁶ signed between the producer and the Electricity Market Operator (known by its Greek initials as "LAGIE").
- The FiPC will set out the process for the settlement, invoicing and payment settlement relating to the FiP.
- Any investment aid granted to a project to cover capital expenses will be taken into account to reduce the operating aid for that project according to the methodology set out in the Draft.
- **Transitional arrangements.** RES projects for which power purchase agreements provided in article 12 of Law 3468/2006 ("PPA") were signed on or before 31 December 2015 will not be subject to the new support scheme and the obligation to participate in the electricity market, but will continue to be supported through the fixed FiT scheme set out in article 13 of Law 3468/2006, **provided that these projects enter into full or trial operation by 31 December 2017 (or 31 March 2018 for wind and small hydroelectric projects).** Any such project not commissioned or operating (as applicable) by the respective deadline will be remunerated under the new support system and be subject to market participation obligations (unless exempted from such obligation: see section "Exemptions from FiP scheme"). The Draft contains provisions entitling RES projects with PPAs signed on or before 31 December 2015 and an installed capacity exceeding 5 MW to move to the market-based system and the FiP scheme by terminating their PPA and entering into a FiPC; the PPA term elapsed by the time of its termination will be deducted from the FiPC basic term (25 years for solar thermal, 20 years for all other projects) and their RT will be equal to the amount of the FiT received under the terminated PPA. A Ministerial Decision will determine the transition process of such projects to the new support scheme.

Reference Tariffs

The RTs, on the basis of which the operating aid in the form of a FiP or a FiT is calculated under the new support scheme, are set out in table 1 of article 2 of the Draft for each type of technology and category (as an example, €98/MWh for wind farms, €278/MWh for solar thermal projects with at least two hours' storage capacity) and are in similar terms to those included in the Proposal. These RTs do not apply to projects that entered into a FiPC or a FiTC (as defined below) on the basis of a competitive bidding process under article 5 of the Draft; the RT for such projects, on the basis of which their FiP or FiT is determined, is the RT that derived from that competitive bidding process.

³ Operating aid in the form of FiT will be granted to projects exempted from the FiP scheme: see section "Exemptions from FiP scheme".

⁴ The methodology for the calculation of the Special Market Price is provided in article 4 of the Draft in combination with a Ministerial Decision to be issued within three months after the legislation has come into force.

⁵ The RT is set out in the FiPC on a €/MWh basis and is determined either according to table 1 of article 2 of the Draft (depending on the technology and category of the RES projects) or on a per-project basis based on a competitive bidding process.

⁶ The type and contents of the FiPCs, as well as the conclusion procedure, will be set out in a Ministerial Decision on the proposal of LAGIE and the opinion of RAE; no FiPCs will be signed before the Ministerial Decision has been issued.

The RTs set out in table 1 of article 2 can be amended by Ministerial Decision given in the first quarter of a calendar year following a reasoned opinion of RAE⁷; any new RT will apply to projects entering into full or trial operation after the end of one calendar year following the year in which the Ministerial Decision was passed (e.g. if the Ministerial Decision is passed in March 2018, the new RTs will apply only to projects entering into full or trial operation after 1 January 2020), apart from photovoltaic (PV) projects, for which the new RTs will enter into force from the beginning of the following calendar year.

Further provisions have been added on how the RTs may be increased for wind farms on Non-Interconnected Islands that include the installation of an undersea cable at the producer's own cost in order to take account of the universal service obligation costs saved for the particular island(s). Another provision stipulates an increase of up to 25% on RT values for both offshore and onshore wind farms on Non-Interconnected Islands or rocky islets which include the installation of an undersea cable at the producer's own cost; an increase will be granted pursuant to a Ministerial Decision following an opinion of RAE if it becomes clear that the RES targets cannot be achieved.

The operating aid for a RES project is calculated on the basis of the RT that applies when the project enters into full or trial operation.

Participation in the electricity market – Balancing and other market obligations

RES producers that have signed FiPCs will also apply to be registered with the Register of Participants kept with LAGIE and to enter into: (a) a contract for Transactions relating to the Day-Ahead Schedule with LAGIE; and (b) a contract for Transmission Operator Transactions with the System Operator. Alternatively, they may elect to participate in the Day-Ahead Schedule Transactions and the Transmission Operator Transaction Systems through RES 'aggregator' service companies (known by the Greek initials as "FOSEs") pursuant to a Representation Contract, in which case they shall notify their FOSE to LAGIE and the System Operator by means of a Representation Declaration. The entry into the Register of Participants or the submission of the Representation Declaration is a prerequisite for the payment of the operating aid in the form of a FiP. The Draft provides the right to turn to a "last resort" FOSE when FOSEs are unable to render their services; a Ministerial Decision will appoint the last resort FOSE and determine its obligations and operation regime.

Balancing responsibilities. RES producers with a FiPC registered with the Register of Participants will undertake balancing responsibilities on the implementation of the electricity market reform according to the EU electricity target model (the "New Electricity Market"); such obligation will commence upon the development of the Intra-day Electricity Market within the framework of the New Electricity Market.

Transitional phase. In the transitional phase before the New Electricity Market has been completed, RES producers registered with the Register of Participants will be subject to separate obligations under the Generation-Demand Deviations Settlement as set out in the Hellenic Electricity Transmission System Administration Code and the applicable Manual.

⁷ Greek Regulatory Authority for Energy.

During the transitional phase and until their balancing responsibilities have been implemented, RES producers registered with the Register of Participants or the FOSEs representing RES producers will be subject to obligations relating to the optimal accuracy of their dispatch forecasts in the day-ahead market; the Draft calls this process “Transitional Mechanism for Forecasts with Optimal Accuracy”. A Ministerial Decision, which must be issued within three months from the entry into force of the legislation following a proposal of the Hellenic Electricity Transmission Operator (known by its Greek initials as “ADMIE”) and the opinion of RAE, will set out the operating details of the Mechanism.

A supplemental premium will be paid on a transitional basis to RES producers that have signed a FiPC in addition to the RTs of table 1 of article 2, depending on the operation of their projects within the framework of the Transitional Mechanism for Forecasts with Optimal Accuracy. Such supplemental premium (initially €3/MWh for wind farms with installed nominal capacity below or equal to 10 MW, and €2/MWh for all other technologies) will be reviewed and may be reduced or withdrawn.

Exemptions from FiP scheme

The range of projects that will be excluded from the FiP scheme has been narrowed slightly compared to the Proposal. The following projects entering into operation after 1 January 2016 in the Interconnected System or mainland Grid are exempted from the FiP scheme and the obligation to participate in the electricity market:

1. Wind farms with an installed or maximum output capacity below 3 MW.
2. All other RES technologies with an installed or maximum output capacity below 500 KW.
3. Demonstration projects installed by the Centre for Renewable Energy Sources (CRES), universities or research organisations or institutions within the framework of a demonstration or similar programme and only for the duration of such programme.

The operating aid will be granted to these projects on the basis of a FiT equal to the RT applicable⁸ according to the Feed-in Tariff operating aid Contract (“FiTC”)⁹ signed between the producer and LAGIE or the Hellenic Electricity Distribution Network Operator (which is also the market operator for Non-Interconnected Islands, known by its Greek initials as “DEDDIE”), as applicable.

Duration

Operating aid will be granted for the same period as the previous scheme, namely 25 years for rooftop PV projects subject to the special programme (PVs up to 10 KWp installed on buildings) and solar thermal plants, and 20 years for all other technologies.

⁸ The RT is set out in the FiTC on a €/MWh basis and is determined either according to table 1 of article 2 of the Draft (it differs according to technology and category of the RES projects) or on a project basis (i.e. for the specific project) when the RT for a project derives from a competitive bidding process. Exceptionally, the FiT for PVs with an installed capacity below 500KW entering into operation after 1 January 2016 will be calculated according to the last line of the table set out in paragraph 3 of article 27A of Law 3734/2009, as in force, unless their RT derives from a competitive bidding process. Also, rooftop PV projects subject to the special programme (PVs up to 10 KWp installed on buildings) are remunerated according to the provisions of that special programme.

⁹ The type and contents of the FiTCs, and the process for their conclusion, will be set out in a Ministerial Decision on the proposals of LAGIE and DEDDIE and the opinion of RAE; until the issue of such Ministerial Decision, the conclusion of FiTCs is suspended.

Non-Interconnected Islands

Until completion of the required infrastructure and the operation of intra-day electricity markets in Non-Interconnected Islands, all new RES projects in Non-Interconnected Islands will be granted operating aid in the form of a FiT based on a FiTC concluded between the producers and the DEDDIE. Their FiT will be equal to the RT applicable to the respective technology and category according to table 1 of article 2 of the Draft, or to the RT derived from the competitive bidding process for a particular project. As with the Interconnected System, any investment aid granted to a project to cover capital expenses will be taken into account to reduce the operating aid for that project according to the methodology set out in the Draft.

If a Non-Interconnected Island is connected to the mainland System, all RES producers that have signed a FiTC and are not exempted from the FiP scheme (see section “Exemptions from FiP scheme”) will transfer to the FiP scheme and be subject to market participation obligations. For these purposes, they will enter into a FiPC for the remaining duration of their operating aid.

On completion of the appropriate infrastructure and the operation of the intra-day electricity market in a Non-Interconnected Island, all RES producers that have signed a FiTC – and do not meet any of the requirements for exemption from the FiP scheme as applicable to Non-Interconnected Islands – will transfer to the FiP scheme and participate in the electricity market of that Non-Interconnected Island. For these purposes, they will enter into a Non-Interconnected Island FiPC¹⁰ for the remaining duration of their operating aid.

The FiPCs and Non-Interconnected Island FiPCs for projects that had initially concluded a FiTC and transfer to the FiP scheme owing to the connection of the island with the mainland System or the operation of the intra-day electricity market in the island, shall be subject to the RTs applicable to the FiTCs that were initially concluded for these projects. However, the Draft provides that the Ministerial Decision regulating a competitive bidding process may provide that the RTs of projects awarded by that tender will change on connection of the relevant Non-Interconnected Island with the mainland System.

Competitive bidding process from 2017

As from 1 January 2017 operating aid will be granted to RES projects on the basis of competitive bidding processes. A Ministerial Decision, following an opinion of RAE, will determine the technologies and/or categories of RES projects that will be supported through competitive bidding processes and all other details relating to the tender process. Although the tender system is intended to start in 2017, the Draft requires RAE to present its proposals to the Minister of Environment and Energy only by the end of November 2016. RAE will conduct the tender process.

PV projects – Pilot tender process. Within three months from the legislation entering into force RAE will conduct a pilot tender for new PV projects, intended to take place within the second half of 2016. According to the Draft, the pilot tender will be for at least 40 MW of capacity; the tendered capacity may be divided and allocated to PV

¹⁰ The type and contents of Non-Interconnected Island FiPCs, as well as the process for their conclusion, shall be set out in a Ministerial Decision on the proposal of DEDDIE and the opinion of RAE; until the issue of such Ministerial Decision, the conclusion of Non-Interconnected Island FiPCs is suspended.

projects subject to the obligation to obtain a Production Licence and small PVs exempted from such obligation¹¹ as well as to other categories based on the nominal capacity of the planned PV projects. The Draft provides for a maximum tender price of €94/MWh for PVs with Production Licences and €104/MWh for PVs exempted from the obligation to obtain a Production Licence. The maximum capacity of each offer has been set to 10 MW. PV stations that have been included in the fast-track procedures of Law 3775/2009 and in the Strategic Investments Process of Law 3894/2010 will be subject to a special framework for their participation in competitive bidding processes that will refer to a maximum tendered capacity of 300 MW until 2020. Such special framework will be determined by a Ministerial Decision on the opinion of RAE.

Next stage

Following the public consultation, it is expected that final draft legislation will be introduced to the Parliament and also notified to the European Commission. Given that no power purchase agreements are currently being entered into, after the previous regime lapsed at the end of 2015, there is considerable pressure from the market to introduce the new legislation and to proceed with the subsidiary regulations the Draft requires.

¹¹ PVs with an installed capacity below or equal to 1MWp.

FOR MORE INFORMATION

Should you like to discuss any of the matters raised in this Briefing, please speak with a member of our team below or your regular contact at Watson Farley & Williams.



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