

Groundwork laid for public-private partnerships in solar energy

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In August 2014, the Energy Regulatory Commission (ERC) announced a new scheme aimed at expanding solar power generation to meet the government's Alternative Energy Development Plan.

To encourage more solar power generation, the scheme allows the establishment of solar farms through public-private partnerships, which are funded and operated by the government or agricultural cooperatives as public partners, with the private sector as project supporters.

Formally known as the Ground-Mounted Solar Energy Project for the Government Sector and Agricultural Cooperatives, the scheme is governed by regulations passed in March. It has an overall peak capacity of 800 megawatts and maximum capacity of 5 MW per project. Only certain projects are eligible to participate, and there are a number of requirements and provisions to be aware of.

Eligibility: To generate and sell electricity under the scheme, a project supporter must be a juristic person (a limited or public limited company) registered in Thailand. A foreign company is eligible only if it is registered in Thailand as a foreign majority-owned company.

A project supporter must obtain certification of standardised equipment for generating power, which includes equipment such as crystal solar cells or thin solar cells. In addition, the supporter must be an experienced company or affiliate with at least one year's experience in solar energy power production, counted from the project submission date.

Alternatively, a project supporter must have staff with knowledge of and at least one year's experience in solar energy power production. In addition, it must have a related licence such as a Control Engineering Professional Licence over the ordinary level or the equivalent.

The selection process is carried out by a draw as opposed to competitive bidding.

Minimum investment: A project supporter must fulfil the following criteria:

- Registered capital of at least 2 million baht per megawatt, with at least 25% paid up, in accordance with rules set by the Commerce Ministry; and

- Investment credit and all types of capital circulating in the company, both of the financial institution and/or the supplier, must be backed by evidence showing the financial institution and/or supplier can provide various types of support to cover the required financial amounts of the project.

A project supporter is entitled to support more than one project, but its total selling capacity must not exceed 50 MW and its minimum capital qualification must cover the total capacity of all projects.

Power-purchase agreement (PPA): Approved project owners will be granted a PPA for a term of 25 years, starting from the scheduled commercial operation date specified in the agreement, the commercial operation date or the actual operation date, whichever comes first.

In the PPA, the sale of power in the portion not exceeding the "capacity factor" will be granted a feed-in tariff (FIT) rate of 5.66 baht per kilowatt-hour. Capacity factor refers to the percentage of total energy produced annually compared with a multiple of installed capacity and the number of hours in a year. For example, for 1 kW installed, 100% capacity would be 8.76 million kWh. With a capacity factor of 16%, the FIT would apply to a maximum of 1,401,600 kWh per kW installed in a year.

The regulation restricts the assignment of rights under the PPA and introduces a three-year shareholding lock-up period. The rights and obligations under an application to sell electricity or an agreement to sell and purchase electricity cannot be assigned unless the authority responsible for the sale gives consent and the ERC approves it. In addition, the regulation does not permit the PPA to:

- change the number of shareholders in a way that causes the original shareholders of the project to subscribe to less than one half of the project; and
- change the distribution of shares among the new shareholders in a way that causes the original shareholders to subscribe to less than 51% of shares during the first three years after the commercial operation date.

Summary: The ERC has set out a clear framework for private participation in ground-mounted solar energy projects owned by the government and agriculture cooperatives. Private-sector participation is essential.

In the future, the regulation may allow foreign companies to participate as project owners and not only as supporters. Power production is considered a manufacturing business under the Foreign Business Act, meaning foreigners can operate a power-production business without a foreign business licence. If the current trend continues, Thailand will be on its way to making renewable energy a sustainable alternative to fossil fuels and imported oil.