Electricity regulation in Vietnam: overview

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A Q&A guide to electricity regulation in Vietnam.

The Q&A gives a high-level overview of the domestic electricity market, including domestic electricity companies, electricity generation and renewable energy, transmission, distribution, supply and tax issues. It covers the regulatory structure; foreign ownership; import of electricity; authorisation and operating requirements; trading between generators and suppliers; rates and conditions of sale and proposals for reform.

Overview

Electricity market

1. What is the role of the electricity market in your jurisdiction?

Overview

The Vietnam energy market remains heavily state-dominated.

The current laws identify eight types of parties taking part in the electricity market:

- Electricity-generating units.
- Electricity-transmitting units.
- Electricity-distributing units.
- Electricity-wholesaling units.
- Electricity-retailing units.
- National electric system-regulating units.
- Electricity market transaction-administering units.

- Customers.

However, state-owned Vietnam Electricity (*T#p đoàn Đi#n l#c Vi#t Nam*) (EVN) still has a monopoly over electricity transmission, distribution, wholesale, retail, and regulation. Power generation is the only segment involving other corporate participants and therefore having a competitive market structure.

Government policy objectives

Vietnamese electricity laws require national power development master plans to be adopted for ten-year periods. Prime Minister's Decision No. 1264/QD-TTg established the current national power development plan (DPD VIII) for the period 2021-2030, with a vision towards 2045. The objectives of the DPD VIII include:

- Encouraging the participation of all economic entities in electricity development, especially private economic enterprises.
- Prioritising the development of electricity sources using renewable energy.
- Encouraging the development of a modern, smart power grid in Vietnam.
- Establishing grid links with neighbouring countries.

Recent trends

Since 2019, the government has issued various pieces of legislation affecting the electricity sector, including the following:

- Decree No. 17/2020/ND-CP on amendments to business conditions in sectors under the management of the Ministry of Industry and Trade (MOIT), including electricity. This Decree took effect on 22 March 2020 and amends many provisions relating to electricity activities and licences.
- Decree No. 51/2020/ND-CP, which amends a number of rules relating to electrical safety.
- Decision No. 13/2020/QD-TTg of the Prime Minister dated 6 April 2020 on the mechanism for encouraging the development of solar power in Vietnam. This decision took effect on 22 May 2020 and contains new regulations on solar power projects, including the following new feed-in tariffs (FiT) for solar power projects:
    - 8.38 US cents/kilowatt hour (kWh) for rooftop solar power projects;
    - 7.69 US cents/kWh for floating solar power projects; and
    - 7.09 US cents/kWh for ground-mounted solar power project).
- Circular No. 18/2020/TT-BCT of the MOIT dated 17 July 2020 on project development and sample electricity purchase contracts for solar power projects, which took effect on 31 August 2020.
- Decision 2023/QD-BCT of the MOIT dated 5 July 2019 approving the programme promoting rooftop solar power development in Vietnam for the period 2019-2025.

In recent years, the government and local authorities have recognised the importance of renewable energy and issued many regulations encouraging the development of renewable energy power projects in Vietnam. According to reports of the MOIT, the total installed capacity of renewable energy power projects was expected to be 5,500 MW by the end of 2019.

According to EVN, in the first five months of 2020, Vietnam installed 9,193 new rooftop solar power projects selling electricity to EVN with a total installed capacity of 273.76 megawatts peak (MWp). Additionally, rooftop solar power projects generated more than 311.8 million kWh on the national grid during the same period. As of May 2020, the country had 31,570 rooftop solar power projects with a total installed capacity of 657.88 MWp.

The role of the private sector, in particular foreign investment, is increasing in the Vietnamese electricity market. Most foreign investment takes the form of build-operate-transfer (BOT) projects, where a foreign investor builds a power generation project, operates it for certain period of time to gain profits, and then transfers it to the Vietnamese Government. As of February 2020, there were 19 BOT thermal power plant projects, with a total capacity of about 27,000 MW, including:

- Four projects that have been put into commercial operation (Phu My 2.2, Phu My 3, Mong Duong 2, and Vinh Tan 1).
- Four projects under construction (Hai Duong, Duyen Hai 2, Nghi Son 2, and Van Phong 1).
- Four projects in the stages of completing BOT contracts (Vung Ang 2, Nam Dinh 1, Vinh Tan 3, and Song Hau 2).
- Two projects under negotiation (Quang Tri 1 and Dung Quat 2).
- Five projects at their initial stage, not yet negotiated (Long Phu 2, Vung Ang 3, Son My 1, Son My 2, and Quynh Lap 2).

Regulatory structure

2. What is the regulatory framework for the electricity sector?

Regulatory framework

The electricity sector is regulated by the:

- Electricity Law of 2004 (amended in 2012 and 2018).
- Guiding decrees, decisions, and circulars issued by governmental authorities (together, Electricity Laws).

The Electricity Laws formalise the shift of the electricity sector to a market economy and diversify forms of ownership and management of electricity generation, wholesale and retail. They also provide the conditions and requirements for operating an electricity business. Vietnam's policies are to liberalise the electricity market and encourage foreign investors to invest in the market (*see Question 24*).

Regulatory authorities

The energy sector in Vietnam is currently mainly managed by the government through the MOIT and provincial People's Committees.

Electricity companies

Main companies

> 3. What are the main companies involved in electricity generation, transmission, distribution and supply?

Vietnam's electricity market is generally dominated by EVN. EVN (via its subsidiaries) currently acts as a single buyer of all electricity generated from on-grid independent power projects. National power transmission, distribution and retail systems are also exclusively operated by EVN subsidiaries.

Generation

The main companies involved in electricity generation are:

- EVN and its subsidiaries.
- Independent power producers (IPPs).
- Privatised or partly privatised generation companies.
- Build-operate-transfer (BOT) projects.

The Vietnam Oil and Gas Group (*T#p đoàn D#u khí Qu#c gia Vi#t Nam*) (PVN) and Vietnam National Coal-Mineral Industries Holding Corporation Limited (Vinacomin) are the biggest IPPs in Vietnam. EVN, PVN and Vinacomin account for 75% of the total electricity generation capacity.

Primary sources include fossil fuel, oil and water, which are put into generation power plants to generate power. The produced power is then connected and transmitted through the National Load Dispatch Centre (NLDC) and the transmission systems of the National Power Transmission Corporation (NPTC) via 500kV, 220kV and 110kV lines to Electricity Purchase and Trading Corporation (EPTC), which in turn sells electricity to five power corporation

subsidiaries. The power corporations (or their local subsidiaries) then sell electricity to end-consumers. NLDC, NPTC, EPTC, and the power corporations are solely owned and controlled by EVN.

Transmission

The NPTC is exclusively responsible for managing the national power transmission grid in Vietnam.

According to EVN's 2018 Vietnam Electricity Annual Report (the 2019 report was not available at the time of writing), the country's transmission grid has 7,516 km of 500 kilovolt (kV) transmission lines and 17,360 km of 220kV transmission lines. The capacity of 500kV and 220kV transformers is 33,300 and 52,688 megavolt amperes (MVA).

Distribution

Electricity distribution and supply is mainly operated by five subsidiaries of EVN (that is, North Power Corporation, Central Power Corporation, South Power Corporation, Hanoi Power Corporation, and Ho Chi Minh City Power Corporation).

Currently, EPTC is the main buyer purchasing all generated electricity. EPTC in turn resells electricity through distribution grids to the five power corporations to retail to end-consumers.

For solar power projects, electricity buyers now include EVN and its subsidiaries as well as other organisations and individuals (*Decision No. 13/2020/QD-TTg*). Therefore, EVN is no longer the sole buyer of electricity from solar power projects in Vietnam. Accordingly, private companies who are granted an operation licence for electricity distribution and retail will have the right to sell electricity to end-consumers.

Supply

In practice, EVN's power corporations purchase electricity from EPTC then sell it to end-consumers. According to statistics released by EVN, EVN's electricity production and purchase in 2019 reached 231.1 billion kWh (an 8.85% increase compared to 2018). In 2020, EVN plans to produce and purchase 251.62 billion kWh (an increase of 8.9% compared to 2019).

Unbundling requirements

Transmission is exclusively vested in EVN through its wholly owned subsidiaries. In practice, the distribution and supply of electricity is mainly operated by EVN's subsidiaries.

Foreign ownership

4. Are there any restrictions concerning the foreign ownership of electricity companies or assets?

There is no restriction concerning the foreign ownership of electricity companies or assets that are involved in electricity generation in Vietnam. Currently, all foreign generation companies invest in the electricity sector in Vietnam through BOT projects (*see Question 1, Recent trends*). The transmission and distribution of electricity are not yet open to foreign investors. EVN and its subsidiaries still play a monopolistic role in these areas.

Insolvency

5. Are there any special insolvency regimes that apply to companies operating in this sector?

There is no special insolvency regime applicable to enterprises operating in the electricity generation sector. Generally, the main legislation applicable to the insolvency of enterprises established in Vietnam (including foreign-invested enterprises) is the Bankruptcy Law of 2014. Article 207 of the Law on Enterprises of 2014 regulates the reorganisation and dissolution of enterprises outside of insolvency proceedings.

Import of electricity

6. To what extent is electricity imported and/or exported?

Import of electricity

Recently, Vietnam has mainly imported electricity from China and Laos.

To ease power shortages in the north, Vietnam signed its first power import contract with China in October 2005, at a price of 4.5 US cents/kWh. The price was increased to 5.1 US cents/kWh on 1 January 2009, and to 6.08 US cents/kWh in 2012. Electricity purchased from China served 13 provinces in the northern part of Vietnam. The volume of imported electricity from China has significantly dropped in recent years and Vietnam currently imports less than 3% of its electricity capacity from China.

Recently, the MOIT proposed increasing the amount of electricity imported from China. The MOIT is considering requesting EVN to:

- Negotiate with China Southern Grid Company (CSG) to increase Chinese electricity imports through existing 220 kV lines.

- Co-operate with CSG for investment in a "back to back" system to increase the purchase of electricity from 2022 without having to perform grid separation.

EVN has also been asked to research buying electricity through 550 kV lines from 2025.

Vietnam began considering buying electricity from Laos in 2016 to:

- Diversify supply sources.
- Avoid building more coal-burning power plants.
- Minimise the risks from over-relying on Chinese imports.

Power imported from Laos and China made up 1.47% of Vietnam's total power production and purchase as of 31 December 2018 (*EVN's 2018 annual report*). Vietnam is in the process of promoting electricity imports from Laos for 2020 onwards, after it completed negotiations and signed a memorandum with Laos in early April 2018 on co-operation in:

- The development of hydropower projects in Laos to generate electricity for Vietnam.
- Connecting electrical systems.
- Electricity trading between the two countries.

Export of electricity

In recent years, Vietnam mainly exported electricity to Cambodia, with an average volume of one million kWh per year.

Electricity generation and renewable energy

Sources of electricity generation

7. What are the main sources of electricity generation?

According to EVN's 2018 annual report, the main sources of electricity generation in 2018 included:

- Hydropower: more than 35.06 % of total generation.
- Coal: more than 38.12% of total generation.

- Oil and gas: more than 18.48 % of total generation.
- Other sources (including diesel, small hydropower and renewables): 7.16% of total generation.

Fossil fuels

Coal and natural gas rank as the second and third source of electricity generation in Vietnam, respectively. Due to Vietnam's limited domestic coal and oil resources, its fossil imports are likely to increase.

According to the United Nations Development Programme's 2012 Report (*Fossil Fuel Fiscal Policies and Greenhouse Gas Emissions in Vietnam*), coal is projected to cover over 56% of all electricity production capacities by 2030, and Vietnam is expected to import about 80 million tonnes of coal per year.

Vietnam is increasingly dependent on imported coal. According to the 2018 Export and Import Handbook of the MOIT, which cited preliminary statistics from the General Department of Customs, about 21.4 million tons of coal was imported in 2018, a 61.4% increase compared to 2017 (mainly bituminous coal and sub-bituminous coal for electricity production).

Nuclear fission

Two nuclear power plants were scheduled to be built in Ninh Thuan in 2020 (that is, Ninh Thuan 1 and Ninh Thuan 2). However, the National Assembly of Vietnam decided to suspend investment on these two plants in November 2016 for a variety of reasons, including:

- Safety concerns.
- Inadequate financial sources.
- Labour shortages.

Renewable energy

Except for hydropower (which accounts for more than 35% of the electricity demand), other renewable sources (such as solar and wind) are in a very early stage. Total installed solar capacity passed 4,460 MW and was expected to reach 5,500 MW by the end of 2019.

See table, *Renewable energy sources*.

> 8. Are there any government policies, targets or incentives in place to encourage the use of renewable or low carbon energy?

Renewable energy targets

There are many renewable energy targets. In particular, Decision No. 2068/QD-TTg dated 25 November 2015 (Decision 2068) sets out the following non-binding targets:

- The ratio of renewable energy to total consumed primary energy will be 31% in 2020, 32.3% in 2030, and 44% in 2050.
- The volume of renewable energy will reach 101 billion kWh in 2020, 186 billion kWh in 2030, and 452 billion kWh in 2050.
- The ratio of renewable energy production capacity will reach 38% in 2020 and 43% in 2050.

Recently, EVN co-operated with other international organizations on a study concerning the deployment of battery storage solutions to strengthen the grid. However, to date, no specific regulations have been issued to facilitate investment in this area.

Government policies/incentives

The Vietnamese Government offers various incentives to encourage the development of renewable energy, including hydroelectricity, biomass energy, wind power and solar power. In particular, Decision 2068 provides incentives which include:

- Zero import duty for assets to form the fixed assets of a renewable energy project, and for materials and semi products that are unavailable in the domestic market.
- Corporate income tax exemption or reduction.
- Land rental exemption or reduction.
- Government funding for research and technology of pilot projects.

In addition, current Vietnamese regulations also provide special incentives for solar energy projects, which are entitled to an import duty exemption for:

- Goods imported to form the fixed assets of a project.
- Materials, semi-products and fuel that are not available locally within five years.

See also *Question 1, Recent trends* for information on solar power projects.

9. What are the main obstacles to the development of renewable energy?

The main obstacles to the development of renewable energy include:

- Lack of capital funding.
- The price offered to renewable power producers is low, while investment costs for production of renewable energy are high, which is not attractive to investors. EVN, the sole buyer of electricity, has no motivation to purchase electricity from renewable energy generators at a higher price, as it is reportedly selling generated electricity to consumers at a loss.
- Lack of human resources specialised in renewable energy.

10. Are there any plans to build new nuclear power stations?

Vietnam plans to build two nuclear power stations in the province of Ninh Thuan. The government has adopted various policies to encourage the development of nuclear power. Specifically, nuclear power stations were included in the national power development strategy for the period 2012 to 2020, according to which five nuclear power stations will be put into operation from 2020 to 2030. A plan for a comprehensive development of infrastructure facilities for nuclear power until 2020 and a plan for the training of staff to serve the development of nuclear power were also approved.

However, due to the Fukushima disaster in 2011 and the country's economic conditions, after completing some preparatory work for the projects, the National Assembly in November 2016 officially suspended the construction of the nuclear power stations in the province of Ninh Thuan. The plants are now projected to begin generation in 2028.

Authorisation and operating requirements

11. What are the authorisation requirements to construct electricity generation plants?

Before obtaining a construction licence, all types of power plants must obtain an electricity generation licence from the MOIT, the Electricity Regulatory Authority of Vietnam (ERAV), or the relevant provincial People's Committee (depending on the scale of the plant).

The authority responsible for granting a construction licence depends on the scale, importance and corresponding classification of the project, as follows:

- Special grade: Ministry of Construction.

- Grades I and II: provincial-level People's Committees.
- Grades III and IV: district-level People's Committees.

(*Circular No. 03/2016/TT-BXD of the Ministry of Construction dated 10 March 2016, as amended.*)

Power plants are classified as special grade (plants of particularly large capacity, and all nuclear plants), grade I (large capacity), grade II (medium capacity), or grade III (small capacity).

Under the Law on Construction, the grant of a construction licence is subject to various requirements, depending on the type of construction. For example, the construction plan must:

- Conform with the land use for the area under the approved land use master plan.
- Meet requirements related to environmental protection, fire and explosion safety, protection of historical and national heritage sites, and so on.
- Have construction designs appraised and approved as prescribed by law.

Under the Electricity Laws, an investor who wishes to obtain an electricity generation licence must satisfy the following general conditions:

- Have a feasible project or scheme for electricity activities.
- Have an investment project for the construction of a power plant that conforms to the approved plan on the development of electricity in the country (currently, PDP VIII).
- Have valid application files for the grant, amendment or supplementation of electricity activity licences.
- Have administrators or managers with managerial capability and professional qualifications that are suitable in the fields of electricity activities.
- Fulfil other conditions listed in *Question 13*.
- Have paid the licence fee.

12. Are there any requirements to ensure new power stations are ready for carbon capture and storage (CCS) technology, or requiring a plant to retrofit CCS technology once this is ready?

There is currently no specific plan for the use of CCS technology. The use of CCS is still being researched in Vietnam.

13. What are the authorisation and main ongoing requirements to operate electricity generation plants?

Any person who owns a power plant must satisfy the following key conditions:

- Have the necessary technological equipment, servicing facilities, workshops and architectural buildings whose technical design has been approved, and which have been constructed, installed, and examined in accordance with the applicable statutory requirements.
- Have the necessary IT infrastructure and a system for operating, supervising and collating appropriate data to meet the power system and market requirements.
- Provide an environmental impact assessment report for the electricity generation project that has been approved by the competent governmental authority.
- The person(s) directly managing technical aspects and operation must have a university degree or higher related to the power sector or equivalent technical sector, and must have worked in the electricity generation sector for at least five years. The person(s) directly in charge of the operation must have been trained for their particular job, for safety requirements, and have been issued a certificate for the operation of a power plant.

14. What requirements are there concerning connection of generation to the transmission network or a distribution network?

To be connected to the transmission grid, a power plant must:

- Satisfy technical and safety requirements set out in the Electricity Laws.
- Sign an agreement with the NPTC, which runs the national transmission grid.

15.What requirements are there concerning the decommissioning of a generation plant at the end of its period of operation?

A generation plant that is to be decommissioned must satisfy specific regulatory conditions, which are set out in the laws on construction, environmental protection and other relevant areas. For example, the Law on Environmental

Protection requires hazardous and other chemical waste to be gathered and treated properly. In respect of constructional requirements:

- The power grid structure must be dismantled and removed.
- The land must be restored to its original state within six months after the power grid is separated from the power system.

The management, dismantling and treatment must be planned out and submitted for approval to the competent authorities (for example, the provincial Department of Natural Resources and Environment or the provincial Department of Construction).

Electricity transmission

Authorisation and operating requirements

16. What are the authorisation requirements to construct electricity transmission networks?

The construction of electricity transmission networks requires a licence from the MOIT. In addition to satisfying the requirements mentioned in *Question 11* (for the issuance of electricity generation licences), the applicant must also satisfy the technical and personnel conditions required by the Electricity Laws (*see Question 13*). There is no specific requirement to notify the MOIT before operating the electricity transmission network. However, before a network can be connected to the national grid, the electricity regulators will check if the network satisfies the technical and personnel conditions.

17. What are the authorisation and main ongoing requirements to operate electricity transmission networks?

See *Question 16*.

Transmission charges

18. How are the charges and conditions for the transmission of electricity regulated?

The charges for the transmission of electricity are regulated by the Vietnamese Government. The annual average transmission price is determined based on the NPTC's total transmission revenue and the total electricity NPTC allocates to units at the delivery points.

In 2018, the transmission price was VND110.88/kWh (about 0.48 US cents), exclusive of value added tax of 10% (*Official Letter No. 2099/BCT-DTDL of the MOIT, dated 20 March 2018*).

System balancing

19. How is electricity supply and demand balanced?

According to the 2018 EVN's annual report, challenges of the power sector in Vietnam include:

- The imbalance between supply and demand of the northern, central, and southern regions of Vietnam (for example, while the south uses more than 50% of the total electricity demand, they can only produce less than 40% of their own consumption).
- The power transmission system between the different regions of Vietnam does not meet the applicable requirements.
- The construction of "backbone" transmission lines and branch lines is slow, not consistent with the progress of source development projects.
- The process of negotiating the import of foreign electricity is facing difficulties.

EVN proposed some solutions, including the following:

- Power plants must be fully prepared with supplies and spare equipment for maintenance and repair, and must tighten operating discipline to ensure that no serious problems occur.
- Domestic and foreign coal and gas sources for electricity generation must be balanced, especially in the dry season.
- EVN must continue to work and sign contracts with coal/gas suppliers to deal with the issue of primary fuel for power plants.
- If domestic coal is not sufficient, EVN must take steps alone, or in co-ordination with Vinacomin (Vietnam National Coal and Mineral Industries Group) (TKV), to import coal for electricity generation.

- EVN must co-ordinate closely with local authorities to save electricity.
- EVN will promote the use of scientific and technological achievements to improve the efficiency of production and business and labour productivity (for example, Big Data, cloud, Artificial Intelligence, the Internet of Things, blockchain, and digital technology).

Electricity distribution

Authorisation and operating requirements

20. What are the authorisation requirements to construct electricity distribution systems?

The construction of electricity distribution systems requires an electricity distribution licence from the ERAV or provincial People's Committee. In addition to satisfying the requirements mentioned in *Question 11* (for the issuance of electricity generation licences), the applicant must also satisfy the technical and personnel conditions set out in the Electricity Laws.

21. What are the authorisation and the main ongoing requirements to operate electricity distribution systems?

The organisation must have technological equipment, power lines and substations that are built, installed, tested, and commissioned in line with specific regulations, and have fire safety systems complying with the relevant regulations (*see Question 13*). Technicians must have as a minimum a bachelor's degree in electrical engineering and at least three years' work experience in the field of electricity distribution. Operators must be trained in electrical engineering and electrical safety and obtain a certificate of operation.

Distribution charges

22. How are the charges and conditions for the distribution of electricity regulated?

The charges and conditions for the distribution of electricity are highly regulated by the Vietnamese Government. Power generators and the purchaser can agree on the electricity generation prices and electricity wholesale prices. However, the agreed prices must be within the brackets of electricity generation prices or electricity wholesale prices issued by the MOIT.

Electricity retailers must set up electricity selling prices on the basis of the brackets of average electricity retail prices, the mechanism of price adjustment, and the structure of the electricity retail price list as provided by the Prime Minister.

Electricity supply

Authorisation and operating requirements

23. What are the authorisation and the main ongoing requirements to supply electricity to end-consumers?

The supply of electricity to end-consumers requires an electricity retail sale licence from the ERAV or the provincial People's Committee. In addition to satisfying the requirements mentioned in *Question 11* (for the issuance of electricity generation licences), the applicant must also satisfy the technical and personnel conditions as required by the Electricity Laws (for example, electricity retailers must have at least intermediate degrees in electrical engineering, economics, finance or equivalent majors and at least three years' work experience in the field of electricity sale and purchase).

Trading between generators and suppliers

24. How is electricity traded between generators and suppliers?

Electricity is traded between generators and suppliers in one of two ways:

- Purchasing and selling electricity under negotiated contracts. The contract must be in writing and include certain specified content, such as:
    - electricity prices;
    - payment modes and time;
    - service standards and quality; and
    - other contents agreed by the two parties.

- Spot dealing using electricity market transaction-administering units. These units regulate, control and co-ordinate electricity transaction activities between electricity market players to ensure the legitimacy and consistency of the whole market.

(*Electricity Law*.)

25. How is electricity trading (between generators and suppliers) regulated?

The EPTC negotiates and enters into power purchase agreements with all generators. The EPTC then sells the electricity to the five power corporations for sale to end-consumers.

Electricity price and conditions of sale

26. How is the price for electricity and conditions of sale regulated at the consumer and wholesale level?

Consumer

The price for electricity at the consumer level is regulated by the Vietnamese Government. The MOIT periodically promulgates the retail price of electricity to groups of electricity users and the electricity price for retailers. As of 20 March 2019, the average retail price was VND1,864.44/kWh, exclusive of VAT (*Decision No. 648/QD-BCT dated 20 March 2019 on adjusting the average retail price and electricity sale price*). Under the Prime Minister's Decision No. 24/2017/QD-TTg (from June 2017), EVN can increase the average power retail price when input costs rise by 3% (this threshold was previously set at 7%). Depending on the input costs increase, EVN can raise the retail price by 3% to up to 5%. For increases of 5% or more, EVN must receive approval from the competent government ministries, such as the MOIT and the Ministry of Finance.

Wholesale

Wholesale prices are set by the five power corporations that supply retailers in provinces and cities. However, the prices must be within the price brackets approved by either the Prime Minister (for remote areas) or the MOIT.

Statutory powers

27. Do companies involved in the generation, transmission, distribution or supply of electricity have any statutory powers to undertake work (for example, compulsory purchase powers or street works powers)?

If the National Assembly makes an investment decision or an investment in a power project is approved by the National Assembly, the Prime Minister or the Provincial People's Council (depending on the importance and scale of the project), the Provincial People's Committee can reclaim land for the implementation of the project (*Article 62, Land Law 2013*). In these cases, the land can be reclaimed by the state (that is, the Provincial People's Committee) without the landowners' consent.

Companies involved in the generation, transmission, distribution or supply of electricity also have street works powers subject to approval from the competent state authority (that is, the Ministry of Transportation, the Directorate for Roads of Vietnam, the Road Regional Bureaus or the provincial Department of Transportation, depending on the scale of the works) (*Circular No. 50/2015/TT-BGTVT of the Ministry of Transportation dated 23 September 2015, as amended by Circular No. 35/2017/TT-BGTVT dated 9 October 2017*).

Tax issues

28. What are the main tax issues arising on electricity generation, distribution, transmission and supply?

The primary taxes imposed on electricity include:

- Value added tax (VAT) of 10%.
- Corporate income tax of 20%.
- Environmental tax (depending on the sources of power).

VAT is payable by end-consumers.

Insurance

29. Are there any insurance requirements from the regulatory authority?

The electricity laws do not provide for insurance requirements. Under the regulations on fire and explosion prevention and treatment, power plants with a capacity of 110 kV or more must buy fire and explosion insurance (*Appendix 2, Decree No. 79/2014/ND-CP of the Government dated 31 July 2014 and Decree No. 23/2018/ND-CP of the Government dated 23 February 2018 on compulsory fire and explosion insurance*). The insurance premiums range from 0.07% to 0.12% of the value of the insured project for projects valued at less than VND1,000 billion. For an insured project valued at VND1,000 billion or more, the insurance premiums are agreed by the parties.

Reform

30. What reform proposals are there for the regulation of the electricity sector?

Investment Law for Public-Private Partnership (PPP)

In March 2020, the MOIT issued document No. 2321/BCT-DL to the Prime Minister, proposing that the Prime Minister consider and submit to the National Assembly the Investment Law for PPP, which allows the application of socialisation regulations to transmission grids.

Power operation licences

In April 2020, the ERAV released a draft of the new circular to replace the current Circular No. 36/2018/TT-BCT on the procedures for application for power operation licences. The draft circular will be issued to comply with Decree No. 17/2020/ND-CP (*see Question 1*).

Steps to develop a competitive market

The Vietnam electricity generation market was only formed in 2006 with eight participating power plants. The Vietnamese Government has taken certain steps to develop a more competitive market. According to the roadmap provided under Decision No. 63/2013/QD-TTg of the Prime Minister dated 8 November 2013, the Vietnam electricity market will be liberalised as follows:

- **Grade 1: Competitive power generation market.** This stage has been put into operation. As of January 2017, 75 power plants were selling electricity directly to the market.
- **Grade 2: Competitive power wholesale market.** After a pilot period, the competitive power wholesale market officially came into operation in January 2019, with five large power plants entering the market.
- **Grade 3: Competitive retail market.** This will be developed from 2021 until 2023. The pilot phase of the electricity retail market will start in 2022, with the aim to have a complete market from 2023.

Gradual increase of power prices

The power retail price in Vietnam has gradually increased in recent years (from VND781/kWh (about 3.5 US cents) in 2005 to VND1,864.44/kWh (about 8 US cents) in 2018).

In August 2020, the MOIT proposed the government a plan relating to the power retail price structure, which provides for price increases. The electricity retail price will distinguish between living and non-living purposes, with a specific percentage for each, multiplied by the average retail electricity price. The MOIT also proposes a plan under which customers could choose to pay a fixed price instead of a price based on the amount of electricity consumed. The fixed price would be 145% or 155% of the average retail electricity price, and equivalent to VND2,703/kWh or VND2,889/kWh (excluding VAT).

Privatisation of power plants

To mobilise funds, the Vietnamese Government has adopted a programme to restructure the power sector. The programme includes the privatisation of EVN's main generating facilities and distribution subsidiaries. EVN has completed the privatisation of several power plants and a distribution company.

According to the plans mentioned in Official Letter No. 7738/VPCP-DMDN of the Government's Office dated 10 March 2014, EVN's three generation companies (EVN Genco 1, EVN Genco 2, and EVN Genco 3) were to be privatised in the near future. EVN Genco 3 completed its initial public offering (IPO) and held its first general meeting of shareholders in Ho Chi Minh City on 17 September 2018. EVN Genco 1 and Genco 2 plan to launch IPOs by the end of 2020 (*Decision No. 26/2019/QD-TTg dated 15 August 2019 on the list of enterprises under equitisation by end of 2020*).

Government ownership after privatisation of these companies is projected to be reduced from 100% to below 51% (*Decision No. 852/QD-TTg of the Prime Minister on approval of general scheme to restructure affiliates of Vietnam Electricity during 2017-2020*).

In addition, Petro Vietnam Power Corporation (PV Power) (an affiliate of PVN) launched a successful IPO. PVN currently holds more than 51% of the charter capital of PV Power and will hold this percentage until the end of 2025. However, if PVN and PV Power restructure their debts and borrow money from credit institutions, PVN must reduce its shareholding in PV Power to under 50%. Vinacomin Power Holding Corporation similarly had a successful IPO. As a result, EVN will own strategic power plants and projects serving several purposes, such as flood control or irrigation only.

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Publications

- *Practical Law Doing Business in... Global Guide (Vietnam Q&A).*
- *Practical Law Insurance and Reinsurance Global Guide (Vietnam Q&A).*
- *Practical Law Corporate Real Estate Global Guide (Vietnam Q&A).*
- *Multilaw Global Real Estate Guide (Vietnam chapter).*

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Publications

- *Practical Law Franchising Global Guide (Vietnam Q&A).*
- *Getting the Deal Through: Licensing (Vietnam chapter).*
- *Multilaw Media, Advertising, and Entertainment Law Throughout the World (Vietnam chapter).*
- *The International Comparative Legal Guide to: Telecoms, Media, and Internet Laws and Regulations (Vietnam chapter).*

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