

## New Regime in France for Roof-Mounted Photovoltaic Panels

The French Energy Regulation Committee (CRE) issued a set of rules on 1 August 2011 that outlines the terms and conditions of the new tender process applicable to certain roof-mounted photovoltaic projects in France.

This new tender process is part of a larger scheme to increase by 5,400 megawatts (mw) the solar energy produced in France by 2020. The overall regime can be broken down as follows:

- Projects involving roof-mounted photovoltaic panels with a capacity of less than 100 kilowatt (kw) are subject to a feed-in tariff that is set and adjusted each semester by the authorities.
- Projects involving roof-mounted photovoltaic panels with a capacity between 100kw and 250kw are governed by the tender offer rules issued by the CRE on 1 August 2011 (detailed below).
- Projects involving roof-mounted photovoltaic panels with a capacity exceeding 250kw and ground-mounted photovoltaic panels, will be governed by tender offer rules expected to be issued by the CRE on 15 September 2011.

### Technical Requirement of the Tender

The tender offer process is applicable to new roof-mounted projects and to certain existing roof-mounted projects already covered by a power purchase agreement, as long as the feed-in tariff applicable to these projects is governed by the Order of 4 March 2011. Photovoltaic panels covering parking areas are not eligible.

Eligible facilities must produce between 100kw and 250kw, on the understanding that the 250kw limit is calculated by taking into account any panels already operating on the same building by the bidder or its affiliates.

Bidders must prove that at the time of their application(s), the manufacturer(s) of their panels has (i) requested an ISO 14001 certificate and (ii) obtained an ISO 9001 certificate.

### Timing of the Tender

The tender process is organised in seven consecutive stages, representing a total capacity of 300mw. The first stage of the tender process will allocate a total capacity of 120mw. Bidders are invited to file one

or several applications with the CRE by 20 January 2012. Each application must relate to a facility with a capacity between 100kw and 250kw. Following this initial stage, successive tender stages will open every three months, each allocating a total capacity of 30mw.

Although the CRE is in charge of the bidding process (i.e., receiving, reviewing and rating applications), the final decision on selection, which is expected to be announced several months after the closing of the application period for each tender stage, belongs to the Ministry for Ecology, Sustainable Development, Transport and Housing and the Ministry for the Economy, Finance and Industry.

In parallel with their application to the CRE, the bidders must obtain applicable environmental and construction permits. In addition, at the time of filing their application, the bidders must have the legal right (i.e., ownership, long-term lease, or option to a long-term lease) to occupy for a term of 20 years the building or part of the building on which the photovoltaic panels will be installed.

### **Timing of Commission**

Selected bidders will commission the power production facilities within 18 months of the notification of the decision by the competent authorities, as long as the connection to the grid can be completed by the grid operator within 18 months. If not, the facilities will be commissioned within two months of connection to the grid.

In any case, the bidders must complete the construction of the facility within 18 months of the notification of the decision by the competent authorities.

A power purchase agreement for each project will be entered into with EDF (the state-owned electricity provider) pursuant to which EDF undertakes to purchase the electricity produced by the facility. The term of the power purchase agreements is 20 years from the date of commissioning, except for existing roof-mounted projects already covered by a power purchase agreement, for which the duration of the power purchase agreement will be reduced accordingly.

### **Tender Application**

Each application will be allocated a number of points by the CRE, mainly on the basis of the price proposed by the bidders. Following a review of all applications, the CRE will provide a ranking of all bidders and the competent authorities will select the shortlist.

Price is the main criterion as it will determine the price (subject to adjustments) at which EDF will purchase the electricity produced by the facility during the entire term of the power purchase agreements. Scoring will depend on how the proposed price compares with the highest and lowest prices proposed.

When a bidder is selected, the price it proposed in its application will be applicable during the first year and will be adjusted subsequently each year during the lifetime of the power purchase agreement, on the basis of the evolution of various indices such as the cost of labour and the manufacturing indices).

In addition, the price will apply to an annual volume of electricity capped at a specific level, depending on the type of panels operated. For panels with no device following the course of the sun, the cap is the installed capacity multiplied by 1,500 hours if located in metropolitan France, or 1,800 hours if located in Corsica and overseas French territories.

For panels with a device following the course of the sun, the cap is the installed capacity multiplied by 2,200 hours if located in metropolitan France, or 2,800 hours if located in Corsica and overseas French territories.

The electricity produced beyond these caps will be purchased by EDF at a price of €0.5 per kw, without applying any annual adjustment.

### **Financial Guarantees**

The tender regime requires that the shareholders' equity in a bidder and/or its controlling entities be at least €0.6 per watt installed, taking into account all photovoltaic projects for which an application was filed by the bidder from 11 March 112011 onwards.

In addition, bidders must present an offer from one or several banks or financial institutions extending credit for the purpose of financing the project.

### **Operation of the Panels**

Bidders are expected to operate the photovoltaic panels themselves. However, a change of operator can be authorised by the competent authorities after the initial decision. The new entity operating the panels will have to offer similar financial guarantees as the original bidder.

Bidders, or their successors, have the obligation to decommission the facilities at the end of operations (i.e., after the facilities are disconnected from the grid). To that end, bidders must remove the panels from the buildings and have them recycled by a specialised company, at their own expense.

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