

## French Solar Projects

October 4, 2011

On 15 September 2011, the French Energy Regulation Committee (CRE) issued a set of rules covering the applicable conditions for the new tender process for photovoltaic (PV) projects in France with a capacity exceeding 250kw. This tender process is designed to help France meet its target of obtaining 5400 MW of its power from solar energy by 2020.

The publication of these rules, which form part of a larger regime designed to encourage increased energy production through use of solar facilities, follows the publication on 1 August 2011 of the rules for [Roof-Mounted PV Panels](#) with a capacity ranging from 100kw and 250kw.

### Practicalities of the Tender Process

Three main types of projects are covered by this tender process: (i) PV cells mounted onto buildings; (ii) ground-mounted PV cells using innovative technology; and (iii) ground-mounted PV cells using existing, recognised technology. Within these three categories, there are several sub-categories for different sized projects, each setting out certain conditions that the tenders must satisfy.

#### *Category 1: PV cells mounted onto buildings*

- Sub-category 1a captures roof-mounted projects with capacity of up to 4.5 MW each. In total, projects under category 1 shall not exceed 50 MW.

#### *Category 2: Ground-mounted PV cells using innovative technology*

- Sub-category 2a captures thermodynamic solar plants with capacity of up to 37.5 MW each. In total, projects under sub-category 2a shall not exceed 37.5 MW.
- Sub-category 2b captures solar plants using concentrated solar power (accounting for at least 30 per cent of the total energy produced by the plant) with capacity of up to 12 MW each. In total, projects under sub-category 2b shall not exceed 50 MW.
- Sub-category 2c captures solar plants fitted with devices following the path of the sun. The projects must have a maximum total capacity of 100 MW, with no single project exceeding a 12 MW capacity.

- Sub-category 2d captures solar plants located in Corsica and overseas French territories and using energy storage devices. The projects must have a maximum total capacity of 50 MW with no single project exceeding a 12 MW capacity. Solar projects located in parking areas are permitted under this sub-category.

*Category 3: Ground-mounted PV cells using existing, recognised technology*

- Sub-category 3a captures solar panels covering parking areas. In total, these projects must have a total maximum capacity of 125 MW, with no single project having a capacity of less than 4.5 MW or more than 40 MW.
- Sub-category 3b captures ground-mounted solar plants or solar plants covering parking areas. These projects must have a total maximum capacity of 37.5 MW, with each project having a capacity of less than 4.5 MW.

Each applicant must make its bid within the ambit of these sub-categories, conforming to the specific applicable requirements. A separate application has to be made for each project that a bidder tenders for. All bids made must be unconditional and bidders must obtain the requisite administrative approvals for their project.

The CRE must receive all applications by 8 February 2012. The documentation must include, inter alia, a dossier on the environmental impact and the associated industrial risks of the project, certificates confirming that planning permission for the project has been obtained, a simplified carbon assessment of the PV cells, and confirmation that the project will contribute both to research into, and the development of, the solar industry.

In the two weeks following the deadline, the CRE will consider all applications received, rejecting those applications that fail to conform to the prescribed format. In the following four months, the CRE will draw up a short-list of suitable applications that it will then pass on to the Minister of Ecology, Sustainable Development, Transport and Housing and the Minister for the Economy, Finance and Industry (competent Ministers), who in turn will decide which of the applications are successful.

The rules state that the supplier of the panels and the companies employed by the bidder to install the panels must be certified by the International Organization for Standardization.

### **Corporate Structure and Financial Strength of the Bidder**

Those bidding for a project will be required to detail the structure of their project, the role of the bidder and the identity of its controlling shareholders. Furthermore, bidders will be required to set out the financial risks associated with the project. This financial risk analysis should constitute: an assessment of the estimated amount of investment into the project; an explanation of the investment, namely whether it will be undertaken by way of equity, debt or loans; the costs involved in the project; and the expected profitability of the project. The bidders will also be expected to provide a letter of intent from the financing banks involved.

Bidders with insufficient technical capabilities and financial resources, which thereby fail to meet the requisite criteria, will be eliminated from the tender process immediately.

### **The Winning Bids**

The competent Ministers will consider all short-listed applications, scoring each of them out of 30, with over a third of the mark being awarded on the basis of the price proposed by the bidder. Price scoring is determined on the basis of a prescribed formula for each of the seven sub-categories by reference to a maximum and a minimum price that is set by the competent authorities. This price will be indexed annually in each year of the power purchase agreement entered into with EDF, the state-owned electricity company. The factors taken into account when revising the price include changes to the hourly cost of labour and construction over the previous year. The cost of connection to the electricity grid must also be factored-in when determining the bidding price.

The other criteria considered when awarding the marks for the project are the environmental impact of the project, the feasibility and time frame in which the project will be completed and the contribution the project will make to research and development in the requisite field.

The electricity that will be bought pursuant to the power purchase agreement will be capped at a price depending on the type of solar panels employed by the project and the location of the project. For panels without a device tracking the course of the sun, the price cap equates to the peak power created, multiplied by 1,500 hours, if the project is located in mainland France, or 1,800 hours if located in Corsica and overseas French territories. For panels that do have a device tracking the course of the sun, the price cap equates to the peak power created, multiplied by 2,200 hours for projects located in mainland France, or 2,800 hours if the project is located in Corsica and overseas French territories. All electricity produced beyond these caps will be purchased at a price of €0.05 per kWh.

## Operating the New Facilities

Following their selection, the winning projects are expected to be installed within 18 months of the competent Ministers' decision. If the connection to the grid cannot be established due to a delay by the grid operator in the grid connection work, the projects are expected to be installed within two months of the completion of the grid connection work. Each project is expected to have a 20 year life span.

In the case of new plants, the power purchase agreement will be effective from the date the facility is commissioned, for a period of 20 years. For plants already benefiting from the Government Order of 4 March 2011, the duration of the power purchase agreement will be reduced by the number of months between the plant going into operation and the signing of the power purchase agreement.

Pursuant to the French Energy Code, if successful, the bidder will be expected to operate the facilities itself. The bidder may not assign the obligations to a third party, except in certain limited circumstances, principally upon the authorisation of the competent Ministers.

## Financial Guarantees

All applicants will be required to give two financial guarantees if their bid is successful: one guaranteeing performance, i.e., construction of the project; and the other guaranteeing the decommissioning of the project. The guarantee for construction of the project is made in favour of the French State and must be given by a financial institution approved by the Minister for the Economy, having a credit rating of at least A, A2, or an equivalent, as determined by a ratings agency. The value of the guarantee is €50,000 multiplied by the power of the solar project (as expressed in megawatts). The form of the guarantee is prescribed in the application pack. Throughout the tenure of the project, the guarantee is gradually released over the course of six stages, once certain conditions have been satisfied, including the successful ordering of the equipment for the project, the installation of the project and finally, putting the plant into operation within a prescribed time-frame.

The guarantee given for the decommissioning of the project is also given in favour of the State and, again, must be given by a financial institution with a credit rating of at least A, A2 or the equivalent, as determined by a ratings agency. The value of the guarantee is €30,000, multiplied by the power of the solar project, as expressed in megawatts. It is given before the 17th year following the installation of the project. As with the guarantee given for the construction of the project, this second guarantee is released in stages, upon the successful completion of the following: (i) dismantling the solar plant at the end of the project, (ii) restoring the site to its pre-project state, and (iii) recycling the PV cells used in the project.

## Conclusion

The rules, along with those previously issued for smaller projects, demonstrate the ongoing commitment of the French government to encourage investment in solar projects, and renewable energy as a whole. Together with the [New Regime for Offshore Wind Energy](#), the new rules demonstrate the ever increasing diversification of energy sources in France.

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