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# Green Energy for a Healthier and Wealthier Society

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### Introduction

In recent years, Thailand has rolled out a number of promotion schemes for renewable energy producers, making investment in renewables a viable and attractive option for both Thai and foreign investors. One recent policy development, the Community Power Plant Project Procurement Regulations, encourages small-scale, privately-owned renewable energy producers to enter the power generation market, and offers incentives to do so.

The Community Power Plant Project Procurement Regulations, issued by the Energy Regulatory Commission (ERC), went into effect on April 11, 2020. The new regulations outline eligibility criteria, the application process, and how to ensure compliance with the terms of Power Purchase Agreements (PPAs) for Very Small Power Producers (VSPPs).

As part of the Electricity Generating Authority of Thailand's (EGAT) Energy Policy for the Local Economy, the new regulations promote the use of renewable energy sources and incentivize partnerships between power companies and local communities. Subsequently, power plants established under this plan must directly involve the local community as a stakeholder and financial beneficiary in their development, construction, and power-distribution activities.

### What is a VSPP?

A Very Small Power Producer (VSPP) is a small-scale, privately-owned power plant that generates no more than 10 MW per project. VSPPs sell electricity directly to state utilities—the Metropolitan Electricity Authority (MEA) and/or Provincial Electricity Authority (PEA)—and may only use the following fuel categories for energy generation:

- i. Biomass
- ii. Biogas from wastewater or waste
- iii. Biogas from biofuel
- iv. A hybrid of biomass with biogas (wastewater or waste)
- v. A hybrid of biogas (biofuel) with solar power.

The VSPP scheme aims to promote domestic waste-to-power generation in Thailand and benefit local communities by encouraging farmers to sell crops to power producers. With these goals in mind, the new regulations explicitly prohibit VSPPs from purchasing or distributing energy from fuel categories that are not listed above. Violations will result in the termination of the VSPP's Power Purchase Agreement (PPA) and incur a heavy fine—5,000 baht per kilowatt according to the amount of power specified in the contract.

## Who is eligible to apply?

To be eligible for the VSPP scheme, prospective applicants must comply with requirements established by various policies and state authorities, including:

- i. The requirements and regulations set by the Executive Committee of Power Purchase from Community Power Plant Projects.
- ii. The qualifications for obtaining an energy industry license under the Energy Industry Act, B.E. 2550 (2007).
- iii. Regulations and announcements related to environmental impact set by the Energy Regulatory Commission.

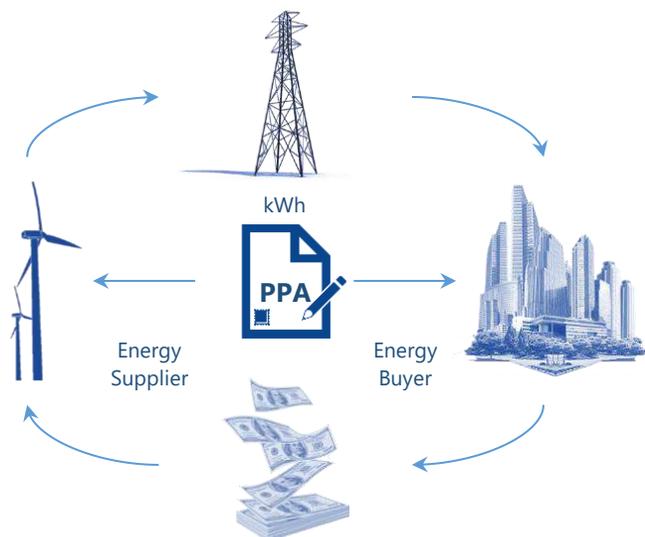
For further information on how to satisfy eligibility requirements for the VSPP scheme, please contact the legal professionals at Mahanakorn Partners Group (MPG).

## The application process

After determining their eligibility, prospective VSPPs should submit a proposal for selling power to either the Metropolitan Electricity Authority (MEA) or the Provincial Electricity Authority (PEA).

Applicants will need to prepare several documents proving their VSPP's viability and regulatory compliance. These include a business plan illustrating the company's structure and logistical schemes, details about its power-generation technology, financial plans, and supporting documents that certify the company's incorporation in Thailand. At every step of the process, the applicant will need to consider the welfare of the local community and the environmental impact of their plans.

When they are ready to submit their application, applicants will post a demand guarantee—specifically, a bid bond in the amount of THB 500 per kilowatt (kW) of electricity offered for sale—to the MEA or the PEA. The bid bond will be returned if the applicant withdraws or loses its bid to sell power, or when the applicant signs the PPA. Additionally, prior to signing the PPA, successful applicants must post a performance bond of THB 500 per kW of electricity offered for sale, as a guarantee that the applicant will fulfill their contractual obligations. This amount will be returned on the Commercial Operation Date (COD).



After reviewing applications, the Executive Committee will announce a list of successful applicants through the ERC and the PEA or MEA. These approved project proponents are eligible to sign the PPA and must do so within 120 days after the announcement. If the applicant fails to sign the PPA within the given timeframe, the PPA will be void and the applicant's bid bond is forfeited, except in cases where a failure to sign is due to the fault of the government agency or a force majeure event.

Further details on the submission timeline, application form, and required supporting documents will be issued at a later date by the ERC. Any updates will be monitored diligently by MPG.

## Power-purchase and promotions

The government offers several investment promotion incentives to VSPPs. In order to mitigate the risks involved with renewable energy investment, the Feed-in Tariff policy mechanism guarantees long-term, fixed-price tariffs for power purchased from VSPPs. PPAs with VSPPs have a term of 20 years from the COD and offer preferential power purchase rates at a fixed price per unit of electricity, which vary depending on the category of fuel.

Table 1: Feed-In Tariffs

Production Capacity (MW)	FIT (Baht/Unit)			Support Duration	FIT Premium
	FiT	FiTV 2020	FiT <sup>(1)</sup>		Special Areas <sup>(2)</sup>
<b>1. Solar Energy</b>					
Installed capacity of all sizes	2.90	–	2.90	20 years	0.50
<b>2. Biomass</b>					
Installed capacity ≤ 3 MW	2.61	2.2382	4.8482	20 years	0.50
Installed capacity > 3 MW	2.39	1.8736	4.2636	20 years	0.50
<b>3. Biogas from wastewater or waste</b>					
Installed capacity of all sizes	3.76	–	3.76	20 years	0.50
<b>4. Biogas from energy crops</b>					
Installed capacity of all sizes					
100% energy crops	2.79	2.5825	5.3725	20 years	0.50
Mixed with waste ≤ 25%	2.79	1.9369	4.7269	20 years	0.50

### Notes

<sup>(1)</sup> FiT rates will be used for Community Power Plant Projects for the Local Economy, which supplies power into the system within the year 2019. After which, the FiTV rate will continue to increase according to the core inflation announced by the ERC.

<sup>(2)</sup> The Community Power Plant Projects for the Local Economy in the provinces of Yala, Pattani, Narathiwat, and for the four districts in Songkhla, which are Chana, Thepha, Saba Yoi and Nathawi District.

Renewable energy generation is also an activity eligible for promotion through the Board of Investment (BOI) Thailand, which offers generous incentives to attract Foreign Direct Investments (FDIs). The BOI promotion scheme must be applied for separately in what may be a complex and lengthy process, so it is recommended that companies obtain legal advice to determine their suitability for this scheme.

**Table 2: BOI Incentives for Energy Generation Projects**

<b>BOI, Section 7: Services &amp; Public Utilities</b>					
7.1.1 Production of electricity or electricity and steam	Corporate Income Tax exemption	Machinery import duty exemption	Raw materials import duty exemption	Non-tax incentives.	
7.1.1.1 Production of electricity or electricity and steam from garbage or refuse derived fuel	<b>A1</b>	8 years no cap	✓	✓	✓
7.1.1.2 Production of electricity or electricity and steam from renewable energy, such as solar energy, wind energy, biomass or biogas, etc. except from garbage or refuse derived fuel.	<b>A2</b>	8 years	✓	✓	✓
7.1.1.3 Production of electricity or electricity and steam from other energy sources	<b>A4</b>	3 years	✓	✓	✓

**Ensuring success**

Capital projects and renewable energy investments need to factor in many risks that need to be successfully managed. The project's legal and financial structures must comply with the host country's regulations as well as international best practices. A comprehensive and timely assessment of all the risks associated with the construction and operation of the asset are critical to ensure the continued viability of a project over its entire lifecycle.



MPG is a leading ASEAN professional services firm with global outreach that offers a wide-range of services, specializing in capital projects management, public procurement, and legal and financial structuring of public-private partnerships, as well as providing closing and ongoing post-closing assistance. For inquiries about the new regulations or any aspect of investment in Thailand, please contact us at [info@mahanakornpartners.com](mailto:info@mahanakornpartners.com)

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