

## CROSS-BORDER EXPORT OF POWER

Across the globe, the demand for energy is constantly on the rise, and this is no exception for countries here in Southeast Asia. The need for additional power creates commercial opportunities for power producers in this region, including those in Malaysia. With a cumulative installed capacity valued at around 40 GW, Malaysia is a nation capable of exporting power to its neighbouring countries and recognizing this, the Energy Commission has developed the Guide for Cross-Border Electricity Power Sales (the “**Guide**”) to inter alia, provide a framework/guide for the export of power and set out the conditions and requirements for cross-border electricity sales. The Guide was originally issued on 31 December 2020 and was later revised on 25 October 2021. This article seeks to explore some of the important terms contained in the Guide which would be useful for the relevant stakeholders of this industry.

The Guide provides that the export of power is conducted under the CBES scheme which permits the export of power by Power Plant Developers (“**PPD**”) to Purchasers in Singapore or Thailand only. The Guide sets out common guidelines which are applicable for exports to both Singapore and Thailand as well as specific guidelines applicable for exports to either Singapore or Thailand, both of which are discussed below.

### **Common Guidelines**

#### **1. Supply Agreement**

The sale and purchase of electricity shall be governed by a Supply Agreement entered into by the PPD and Purchaser which governs inter alia, the methods of billing, settlement processes and the delivery point.

## **2. Compliance with Laws**

PPDs shall at all times, in its conduct under the CBES scheme, comply with the laws stipulated under the Electricity Supply Act 1990 ("**ESA 1990**"), codes, conditions and guidelines issued by the Energy Commission and other relevant Malaysian laws. This includes obtaining a licence to operate a power plant from the Energy Commission which is regulated under Section 9 of the ESA 1990. PPDs should note that in its application for said licence, it should include:

- a) a letter of approval issued to a Purchaser by the relevant authority of Singapore or Thailand;
- b) a validly executed Supply Agreement;
- c) a validly executed System Access Agreement (if applicable); and
- d) any document as may be required by the Energy Commission to process the PPD's licence application.

PPDs should however note that the issuance of said licence shall not in any way attach liability to the Government or the Energy Commission with regards to the viability of projects developed by the PPD under the CBES scheme.

## **3. No obligation for the Single Buyer to purchase power**

In the event that the Supply Agreement between PPD and Purchaser expires within the lifetime of the PPD's power plant which was manufactured for the purposes of the CBES scheme, the Single Buyer is under no obligation to purchase the power produced by the PPD. This is an important feature of the CBES scheme which PPDs should be aware of to secure continuous business operations and profits.

## **Specific Guidelines - Singapore**

### **1. Existing Interconnection**

The Guide provides that the export of power to Singapore can only be done through the Existing Interconnection which utilises the Grid System (which comprises of high voltage electric lines, plants, apparatus and meters owned or operated by Tenaga Nasional Berhad ("**TNB**")). Thus, Dedicated Interconnections (new interconnections built specifically for a PPD's project) are not permitted and compliance with the relevant technical requirements provided in the Grid Code for Peninsular Malaysia and the relevant TNB guides for connection (such as metering requirements) is compulsory for Singaporean projects.

## **2. Non-renewable Sources**

Under the Guide, only non-renewable energy sources (i.e. coal, natural gas or fuel oil) shall be used for generating power sold from Malaysia to Singapore. However, on 9 May 2023, Economy Minister Mohd Rafizi Ramli announced that the government has decided to lift the ban on renewable energy exports in its cabinet meeting dated 3 May 2023.

Thus, pending the inception of a new renewable energy trade mechanism and policy frameworks which the Economy Minister revealed will be unveiled in the coming months, exports of power to Singapore shall include both non-renewable and renewable energy.

## **3. Delivery of power**

The delivery of power from the PPD into the Grid System shall not exceed 100MW and shall be in accordance with the time and quantum of energy stipulated under the dispatch schedule (scheduled at half hourly tranches) approved by the Single Buyer ("**Scheduled Energy**").

In the event there is a shortfall between the quantum of energy delivered to the Grid System and the Scheduled Energy, the operator of the Grid System is not obligated to make up for the shortfall but instead, it will be the responsibility of the PPD to make up for it in accordance with the System Access Agreement. On the flipside, if there is excess of energy sent out to the Grid System, no payment will be made by TNB to the PPD.

## **4. System Access Agreement**

The PPD and TNB are required to enter into a System Access Agreement to govern the connection, access and operation to the Grid System, including cross-border interconnections. Terms related to billing and wheeling charges (charges imposed by TNB for utilising the Grid System) shall also be included in the System Access Agreement.

## **Specific Guidelines - Thailand**

### **1. Dedicated Interconnection**

The Guide provides that the export of power to Thailand can only be conducted using a Dedicated Interconnection. Hence, PPDs who seek to export power to Thailand are not able to utilise the Existing Interconnection, but are instead required to develop and construct a new Dedicated Interconnection which would require the approval of the Energy Commission, relevant local authorities and authorities in Thailand.

PPDs would also need to acquire/lease land for the Dedicated Interconnection. Therefore, PPDs must ensure that it possesses not only the technical capability to maintain and operate a Dedicated Interconnection, but also the financial capability to manage the costs arising from it.

## **2. Connection to the Grid System**

Unlike exports of power using the Existing Interconnection, exports through a Dedicated Interconnection shall not be supported by and connected to the Grid System. Thus, PPDs must ensure that projects which utilise a Dedicated Interconnection must be capable of procuring, maintaining and operating its own proprietary system.

## **Conclusion**

The Guide as a framework for cross-border exports of power has certainly opened up business opportunities for PPDs. Malaysia is fortunate to be at the centre of vast expanding markets with the likes of Singapore, Thailand, Indonesia and other growing Southeast Asian countries in close proximity to it and thus, it should strive to capitalize on this.

The recent lifting of the ban on renewable energy exports is definitely a move in the right direction and promises that Malaysia has the ambition to further stimulate the development of this industry. The authors look forward to seeing a healthy and steady progression of this industry.

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