

# The new regulatory regime for the promotion of renewable energy sources (RES) in Bulgaria

- An introduction to energy law -

## I. Sources of law

The actual program of the Bulgarian government to promote the production of electrical power using renewable energy sources, the way in which a producer of RES can be connected to the public electrical grid, the preferential prices for sale of energy coming from RES, as well as the duty to purchase the energy can be found in:

- The Law on Energy
- The Law on renewable and alternative energy sources
- The Law on the promotion of investments
- The Regulation on the adjustment of the prices for electrical power
- The Regulation on the form, content, conditions and the order for issuing a certificate of the origin of electrical power, made of RES
- The Decision № Z-013 dated 28.06.2006 of the State Commission for power and water regulation determining the preferential prices for the sale of electrical power, produced by wind power plants.

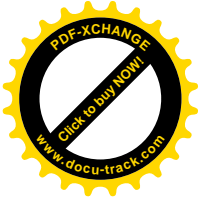
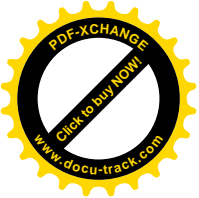
## II. Promotion of electrical power coming from RES

The law on renewable and alternative energy sources, as made official on 19.06.2007, introduces mechanisms for the promotion and encouraging of the production and the use of power made of RES, as well as setting out the rights and obligations of the executive power and the local municipalities in running state politics on encouraging the use of RES and in creating a national public system of available resources of RES and the producers of RES.

According to the law, the Council of Ministers approves a proposal, set out by the Minister of Economy and Energy, which outlines national indicative targets for the use of electrical power, made of RES, and establishes time limits on their implementation. The national indicative targets for the use of electrical power made of RES include reaching a set percentage of the forecast annual gross use of electrical power in the country for the next 10 years, counting from the date of approving the targets. The national indicative targets are updated every five years.

To reach these targets, the following measures are foreseen by the laws and provisions listed above:

1. mandatory connection of RES producers power to the electrical grid
2. preferential prices for the sale of RES energy



3. securing preferential treatment for producers of RES power in relation to their income from a unit of produced energy, in the case of a change in the mechanisms for the stimulation of production of RES electrical power

Investment projects, related to the building, expansion and modernization of sites used for the production of RES power, as well as their infrastructure, be it of public state or municipal ownership, are subject to the rules set out in the Law on the promotion of investments.

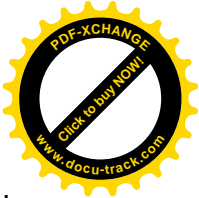
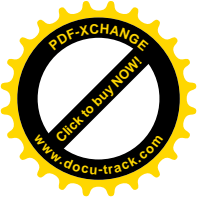
The law on the promotion of investments encourages initial investments in long-term material and non-material assets and the new job places that arise as a result, as approved by Regulation (EO) № 1628/2006 of the European Commission.

The investments should meet the following criteria:

1. Registration of a new company or expansion of an already existing enterprise
2. Conduct of the following economic activities:
  - a. industrial sector: recycling industry and the production of RES electrical power
  - b. service sector: high-technology activities in the area of computer technologies, as well as education, and human health and safety
3. At least 80% of the future income must be generated by the economic activities set out in point 2 above;
4. The time limit for implementation of the investment project must be no later than three years counting from the date of issue of certificate of class investment.
5. The volume of investments on one site must be no less than the minimum amount, set out in the implementing regulation to the law, and whose size may be:
  - a. no more than twice less, for the less economically developed areas, as defined by the administrative (geographical) limits on which the entire investment project will be executed;
  - b. no more than twice less for investments in high-technology activities from the industrial sector of the economy as set out in point 2a, above.

The implementing regulation to the investment promotion law must be approved until latest August 27, 2007.

6. At least 40% of the investment costs must be financed by private equity or third party loans; these means are considered to be those of state benefits or which contain elements of state grants.



7. It is required that the jobs to be created by the investment must be sustained for a minimum period of 3 years in the relevant region, counting from the date of its implementation.
8. The investment must be sustained for no less than 5 years in the relevant region from the date of its implementation

Investments considered to be worthy of promotion, by virtue of this law are separated into class A and class B, provided that they fulfill the criteria for the minimum amount of the investments, as set out in the implementing regulation to the Investment Promotion Law. Certificates are issued for class A and class B investments.

Investments are promoted by:

1. shortened terms for administrative attendance;
2. individual administrative attendance, required for the implementation of the investment project;
3. acquisition of ownership rights, or being given limited ownership rights on properties partly or entirely owned by the state on a private-state or municipal basis;
4. financial support for building elements of the technical infrastructure, required for the implementation of one or more investment projects;
5. financial support for the training and professional qualifications for persons aged 29 or less, including placement students from higher education institutions from all over the country, who are employed by the business, relating to the investment.

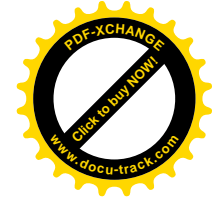
Investments are also encouraged by virtue of the Law of corporative income taxing, Law of value added tax (VAT), and the Law of the stimulation of employment, if they meet the relevant criteria.

### **III. Mandatory connection**

According to the Law on renewable and alternative energy sources, stricter requirements are being introduced for the transmitting and/or distributing companies when joining a grid of manufacturers of electric power. Transmitting/distributing companies are required to give priority to producers of RES electrical power wishing to be connected to the grid and which meet the specific conditions for joining the grid, as set out in the Regulation on connecting producers and consumers of electrical power to the electrical grid.

The producer of RES electrical power has to file a motion to the transmitting or the relevant distributing company to get information about the conditions and the way to connect the energy plant to the grid. This information has to be provided within 90 days. Both parties may then enter into a preliminary contract of grid connection.

The term for the connection is determined by a contract and must be no longer than what the producer has indicated as a time limit for the implementation of the project.



The Law on renewable and alternative energy sources provides for a penalty of 50,000 BGN for distributors who do not meet their obligation to give priority to new RES electrical power providers to join the electrical grid. A second failure to prioritise would result in the initial penalty being tripled.

RES power producers may be connected to the grid using the location closest to the location of the RES power site. In the terms and conditions for connection, the transmitting/distributing company is obliged to provide a connection scheme in which they anticipate that the connection should be done using the closest possible point, as well as a preliminary amount of connection. The distributing company is obliged to provide an option for businesses to join the facilities of those RES producers who have already been connected, or are in the process of being connected.

The RES producer has to bear the connection costs to the point of ownership of the electrical facilities, whereas the grid company bears all other costs including building new and repairing old cables.

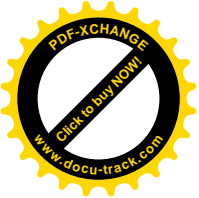
The producer has to pay a connection fee, which only includes direct overheads that the distributing company has incurred, in relation to the connection. Those direct overheads are defined by the Regulation on the adjustment of the prices for electrical power. The overheads incurred during the expansion and/or the reconstruction of the electrical grid, in relation to the connection of the energy site of the producer, are to be covered by the transmitting/ distributing company and are not included in the fee.

According to Article 25 of the Regulation on the adjustment of the prices for electrical power, the connection fees for producers are individual and include actual expenditures for building the facilities to join the relevant grid. If the connection of a producer requires expansion or reconstruction of the transmitting/ distributing grid, the joining fee includes the expenditure required for this expansion/reconstruction.

#### **IV. Mandatory purchase of RES electrical power / certificates of origin:**

According to Article 16 of the Law on renewable and alternative energy sources, the public supplier, and respectively the end service providers, purchase the entire quantity of electrical power coming from renewable energy sources, with the exception of those quantities for which the producer has already entered into an agreement of mutually agreed prices, in accordance with Title 9, Division 7 of the Energy Law, or with those on a balanced market, as well as quantity of electrical power, made for private use.

In accordance with § 3 from the transitional and final provisions, the mandatory purchase of electrical power from the public supplier, and respectively the end service providers, is based on the basis of a contract of purchase. The deadline for contracts of purchase is 12 years. For new producers of RES electrical power,



the time limit of the contract begins on the first day of production of electrical power, but no later than 31.12.2010.

For the power to be purchased, the producer must possess a 'certificate of origin', which makes clear that the power is produced by a renewable energy source. The certificate of origin provides evidence about the producer, the quantity of RES electrical power, the period of production, the production site and its capacity.

The certificates of origin are issued by the State commission of energy and water regulation, in accordance with the Regulation on Conditions and Order of Issuing Certificates of Origin. The state commission of energy and water regulation maintains a register of the certificates of origin, which is published online on the commission's website. Certificates of origin are given after the issuing of a license for production of electrical power and when the power site has been commissioned.

A certificate is issued for the quantity of electrical power, produced by renewable energy sources for the period of three calendar months. For water-electrical, wind and photovoltaic plants this period may be expanded to one year, by virtue of a decision of the commission.

Until a certificate of origin has been issued, the public suppliers purchase the entire quantity of electrical power, stated as being produced from a renewable energy source, on preferential prices, from the producers with plants commissioned in the last three months.

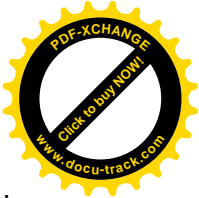
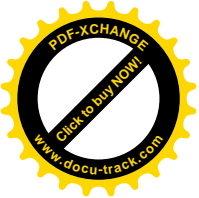
The producers with registered certificates of origin disclose information required for the next issuing of a certificate of origin and a copy of the invoice provided when the respective quantity of energy was purchased. This information shall be given to the commission, with a deadline of 10 days after the expiry of the previous calendar month.

## **V. Preferential prices for purchase of power, produced by renewable energy sources**

Until the creation of a system of trade of green certificates, the energy produced by RES is purchased on preferential prices, as defined by the Regulation on the prices of electrical energy.

In accordance with article 25 of the Law on renewable and alternative energy sources and bio-fuels, the State Commission of energy and water regulation determines annually, until 31.03., preferential prices for the sale of RES electrical power.

Also, in accordance with the above stated article, the preferential price is valued at 80% of the average sale price for the previous calendar year of the public or end suppliers and an addition, determined by the State Commission for energy and water regulation. When determining the price, the Commission takes into consideration the criteria in relation to the type of the primary energy source, as defined by the Regulation on the adjustment of the prices for electrical power. The



addition for the next calendar year cannot be less than 95% of the amount added in the previous calendar year.

In accordance with article 19 of the Regulation on regulation of prices of electrical power, the preferential prices of RES electrical power is valued at no less than 70% of the average sale price for the previous calendar year of the public suppliers and an addition, determined by the State Commission of energy and water regulation.

There is a discrepancy between the Law and the Regulation in relation to the percentage of average sale price for the previous calendar year, on the basis of which is calculated the preferential price for the following year. The Regulation comes secondary to the Law and cannot override it, and therefore the preferential prices for sale of electrical power for the next year must be calculated on the basis of 80% of the average price for the previous year of the public suppliers, plus an addition.

The preferential prices are determined on the basis of the following criteria, binding all renewable energy sources:

1. the type of technology
2. the size of the installed capacity
3. the available resources of the primary energy source

When determining the preferential prices of the electrical power, produced by wind power plants, the Commission applies an additional special criterion: available resources of the primary energy source in the case of full effective annual working hours of the wind generators:

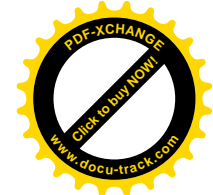
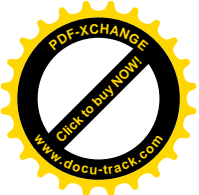
1. to 2,250 hours inclusive
2. above 2,250 hours

In Decision № Z-013 of 28.06.2006, the State Commission of energy and water regulation determined that from 1.01.2007, the preferential price for sale of electrical power, produced by wind power plants with new facilities, made after 1.01.2006 as follows:

- for wind generators with full effective annual working hours up to 2,250 hours inclusive – 175 BGN/Mwh
- for wind generators with full effective annual working hours above 2,250 hours – 156 BGN/Mwh

VAT at 20% is included in the prices.

The wording is unclear as to whether, in the case of full effective annual working hours of above 2,250, the price would be differentiated: 175 BGN/Mwh to 2,250 full effective working hours, and above those hours – 156 BGN/Mwh. There has been no practice to this effect up to now.



## VI. Average selling price

In accordance with § 1, point 12 of the Additional Orders to the Regulation on adjustment of the prices for electricity (“average sale prices for the public/end suppliers”), the average price of electrical power when trading with business and private consumers for a set period of time, measured by the respective amount of use being charged at the respective tariff prices for public use.

The tariff price for public/end suppliers is formed on the basis of the confirmed forecasted required annual income, in accordance with article 10 of the Regulation on adjustment of the prices for electrical power and the confirmed forecasted quantity of electrical power for sale.

It is up to each of the energy businesses to determine at what price they sell the electrical power for a defined period of time. The business must apply to the Commission of water and energy regulation for approval of the required income and prices for the relevant period.

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