**PROCEDURES FOR OPERATION REGISTRATION OF ROOFTOP SOLAR POWER SYSTEM**

1. **Legal basis**

* Electricity Law 2004 of the National Assembly dated December 3rd, 2004;
* Amended Electricity Law 2012 of the National Assembly dated November 20th, 2012;
* Construction Law 2014 of the National Assembly dated June 18th, 2014;
* Amended Construction Law 2020 of the National Assembly dated June 17th, 2020;
* Law on Investment 2020 of the National Assembly dated June 17th, 2020;
* Law on Enterprises 2020 of the National Assembly dated June 17th, 2020;
* Decree No. 136/2020/ND-CP of the Government dated November 24th, 2020 on providing guidelines for several articles of Law on Fire Prevention and Fighting and Law on amendments to Law on Fire Prevention and Fighting;
* Circular No. 18/2020/TT-BCT of Ministry of Industry and Trade dated July 17th, 2020 on Project development and sample of electricity sale contract applicable to solar power projects;
* Decision No. 13/2020/QD-TTg of the Prime Minister dated April 6th, 2020 on incentitives for the development of solar energy in Vietnam;
* Decision No. 27/2017/QD-TTg of the Prime Minister dated July 6th, 2018 on Promulgating Vietnam standard industrial classification;
* Official Letter No. 1634/BXD-HDXD of the Ministry of Construction dated April 8th, 2020 on the grant of Construction Permit for the solar power system on the roof of the enterprise's factory in the industrial park;
* Official Letter No. 3288/CP07-P4 of the Vietnam Fire and Rescue Police Department - Ministry of Public Security dated September 8th, 2020 on guiding the appraisal and approval of designs on fire prevention and fighting for solar power factories and rooftop solar power systems.

1. **Interpretation**

**The rooftop solar system** refers solar system in which solar panels are installed on the roof of the construction with capacity of not more than 01 MW and directly or indirectly connected to a power grid with up to 35kV of the Buyers (*Clause 5 Article 3 Decision 13/2020/QĐ-TTg*).

1. **Procedures for operation registration of rooftop solar power system**

Ordinarily, when operating in the electricity sector, the investor will need to apply for an license for electricity activity in accordance with Clause 1, Article 34 of the Electricity Law 2012. However, when registering the operation of a rooftop solar power system, the investor shall be exempted from the license for electricity activity pursuant to Clause 4, Article 5 of Circular No. 18/2020/TT-BCT. Additionally, in order for the rooftop solar power system to be operated, the investor should note the following procedures:

1. **Reviewing the conformity with planning and the approval of electricity development planning**

According to Clause 1, Article 11 of the Electricity Law, electricity development investment must comply with power development planning. Investment projects not yet included in the power development planning shall only be executed when the power development planning agency requests competent authority to approve the planning.

Previously, Clause 3, Article 4 of Decision No. 11/2017/QD-TTg stated: *“Solar power development planning only applies to grid-connected projects and do not apply to rooftop solar power projects”*. Accordingly, rooftop solar power does not need to apply provisions related to electricity development planning. However, from July 1st, 2019 until now, this provision has expired and the alternative documents are still left open and have not mentioned this matter. Thus, it cannot be excluded that rooftop solar power projects still have to be approved for planning according to the provisions of the Electricity Law.

Therefore, until more specific guiding documents are available, before implementing a rooftop solar power project, the investor should pay attention to check whether the proposed location for the project is within electricity planning or not, otherwise, it is necessary to get guidance from local competent authority regarding the procedure to apply for planning approval before implementing the project.

1. **Approval for investment policy**

If the investor’s installation of the rooftop solar power system project falls into the cases specified in Article 30 to Article 32 of Law on Investment, the investor need to request the competent authority to be granted approval for investment policy.

1. **Applying for an Investment Registration Certificate for the project**

Pursuant to Article 37 of Law on Investment, in case the investor is a foreign investor or falls under cases mentioned in Clause 1, Article 23 of Law on Investment, it is necessary to carry out the procedure for applying for an Investment Registration Certificate before implementing the rooftop solar power project.

Domestic investors are not required to carry out this procedure. However, in case the investor wants to apply for an Investment Registration Certificate in order to enjoy investment incentives as prescribed, the investor being a domestic investor can also apply for an Investment Registration Certificate for the rooftop solar power project.

1. **Applying for an Enterprise Registration Certificate in case establishing a new enterprise to implement the project**

According to regulations, a newly established enterprise must have business lines that are suitable for the operation of the rooftop solar power system and must be registered with the Business Registration Division of the Department of Planning and Investment in the locality. As provided in Appendix I Decision No. 27/2018/QD-TTg, the business line codes for electric power generation and electric business activities that the investor can refer to for registration are 3511 (Electric power generation) and 3512 (Electricity transmission and distribution). In case the enterprise has been established, the investor needs to check the current business lines of the enterprise and add the foregoing business lines to ensure that the enterprise can perform activities related to the rooftop solar power system.

1. **Applying for a Construction Permit**

According to Clause 10, Article 3 of the Construction Law 2014, amended by Point c, Clause 1, Article 1 of Amended Construction Law 2020, a construction work *“means a product constructed according to design, created by human labo;, building materials and equipment installed therein, and affixed to land, which possibly includes underground and surface components, underwater and water surface components”.* Based on the definition of “Construction work” above and the definition of rooftop solar power system mentioned in Section II, the rooftop solar power system is considered to be construction work. Accordingly, if a rooftop solar power system is not exempted from Construction Permit as stated in Clause 2, Article 89 of Law on Construction, a construction permit is required. Depending on each case, the following types of construction permits can be applied:

* New construction permit: in case of constructing the construction work from scratch and installing the rooftop solar power system;
* Repair and renovation permit: in case the construction work where the rooftop solar power system is installed has been completed in accordance with regulations, the installation of the rooftop solar power system changes bearing structure of the construction work.

In particular, for projects in an industrial park, according to Official Letter No. 1634/BXD-HDXD dated April 8th, 2020 of the Ministry of Construction, the additional installation investment of solar power systems on the roof of the existing factory in an industrial park must be fully comply with the procedures for construction investment: Formulating, appraising, approving the project, the design and granting of Construction Permit (if not eligible for exemption).

1. **Compliance with fire prevention and fighting requirements (“FPAP”)**

According to Clause 4, Article 9 of Decision No. 13/2020/QD-TTg, investors installing the rooftop solar power system must ensure the electrical safety, fire safety requirements according to current regulations.

According to Section 2 and Section 3, Official Letter No. 3288/CP07-P4 dated September 8th, 2020 of the Vietnam Fire Prevention and Fighting Police Department - Ministry of Public Security, for the solar power system installed on the roof of the construction work that is eligible must be appraised and approved for FPAP, the roof solar power system must also be appraised and approved for FPAP design. Cases of installation on the roofs of construction works that are not subject to the above-stated appraisal and approval of fire safety design are not required to be appraised and approved for FPAP design but the investor need to be guided and recommended to implement solutions to ensure fire safety for this system.

Previously, Official Letter No. 3288/CP07-P4 referred to Appendix IV of Decree No. 79/2014/ND-CP to determine which construction work is subject to an appraisal and approval of fire safety design. However, at the present, Decree No. 79/2014/ND-CP has expired and is replaced by Decree No. 136/2020/ND-CP with Appendix V stipulating the list of projects, works and vehicles that are required for appraisal and approval of fire safety design.

Thus, it can be determined that if the investor’s rooftop solar power system falls under the subjects specified in Appendix V of Decree No. 136/2020/ND-CP, the investor must carry out the procedures for appraising and approving the design on fire prevention and fighting. As for rooftop solar power systems that are not listed in Appendix V mentioned above, when newly constructing, renovating or repurposing, the design must satisfy fire safety requirements stipulated by fire prevention and fighting regulations and standards. (Clause 13, Article 13 of Decree No. 136/2020/ND-CP).

1. **Conclusion**

From the above-mentioned statement, it can be seen that the procedure for operation registration for each rooftop solar power system is different depending on the implementation subject, scale, and place of installation of the rooftop solar power system. After obtaining the necessary licenses, permits, certificates as required by law, the investor of the rooftop solar power system can conduct electricity trading activities with the Vietnam Electricity Group or its member unit or other organizations, individuals under connection agreement between the parties. Clause 2, Article 5 of Circular No. 18/2020/TT-BCT has specific regulations on the process of connection, purchase and sale of electricity from the agreement, installation, technical inspection, install electricity meter, conclude meter readings, sign electricity sale and purchase agreements and operation of rooftop solar power system.

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