

# INSIDER

## ENERGY LAW

### Turning point in renewable energy in Belarus

On 18 May 2015 the President of the Republic of Belarus signed a Decree No. 209 “Concerning the use of renewable energy” (Decree), which had been actively discussed by Belarus business community for more than 3 years. The Decree, officially published on 20 May 2015, made significant amendments to the regulation of “green” energy in Belarus. Key amendments concern quotas implementation and establish new rules of tariff determination for renewable energy. Read more for the details of the new Decree.

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#### 1. QUOTAS

Before the Decree, renewable energy in Belarus was regulated by The Law of the Republic of Belarus of 27 December 2010 N°204-Z “On the renewable energy sources” (the Law). According to the Law the state guarantees to the investor access to public grid and purchases produced energy applying feed-in tariffs (increasing coefficients and stimulating tariffs).

Until today there haven't been any restrictions for the construction of renewable plants. Any investor could construct such a power plant and start to sell energy to the state. But the Decree introduces quotas for building renewable plants.

Quotas will apply to:

- Construction of new power plants,
- Modernization and reconstruction of existing plants. Thus to increase capacity or to add a new facility to an existing one, an investor should obtain a permission of a public authority.

Quotas will not apply to:

- Companies, which produce energy only for their own needs and not with the aim to supply the public grid,
- Renewable power plants being built under investment agreements with the government of the Republic of Belarus concluded and registered before 20 May 2015.

The Decree rules concerning the quotas will enter into force on 21 August 2015. Until then the Council of Ministers are supposed to adopt a regulation determining general rules for the implementation of quotas. It is likely that any work on new projects will be postponed



## 2. FEED-IN TARIFFS

According to the current legislation, the state is obliged to buy energy produced by renewable power plants for a price that entails feed-in tariffs: an increasing coefficient for 10 years after the commissioning of the power plant and stimulating tariffs for the next 10 years.

The cost per 1 kWh of energy, produced by different types of renewable power plants is provided in the table below\*.

	Increasing coefficient (for 10 years after the commissioning)	Stimulating tariff (for the next 10 years)
Wind, biomass, biogas	1,3 (0,17 USD /kWh)	0,85 (0,11 USD /kWh)
Hydro	1,1 (0,15 USD /kWh)	0,85 (0,11 USD /kWh)
Solar	2,7 (0,36 USD /kWh)	0,85 (0,11 USD /kWh)

*\*at prices as of 20 May 2015*

The Decree has introduced also new rules of tariffs determination.

### Rule No. 1: Increasing coefficient differentiation

Increasing coefficient can be differentiated either by the source of the renewable energy or by electric capacity, service life and other equipment characteristics.

According to the government, the service life criterion would limit the usage of second-hand power plants, imported from other countries (for instance, wind power plants, solar panels).

According to the Law, the Ministry of Economy is entitled to establish such feed-in tariffs. In the nearest future the regulations related to the tariffs determination should be adopted. For now, it is even difficult to estimate any particular coefficients.

### Rule No. 2: Voluntary decrease of the coefficient

The coefficient may be decreased on the initiative of a particular investor, who has an intent to build renewable power plant within quotas.

It means that an investor can apply for a decrease of a feed-in tariff, while obtaining a permit from the authorities for construction of a renewable power plant. For instance, if an increasing coefficient for solar energy is 2,7, investor may apply for a lower 2,3 and thus receive a permit.

In our opinion a possibility to set lower coefficient will play into the hands of public authorities in negotiations with an investor.

### Rule No. 3: Meeting the deadlines for the construction

Investors may benefit from increasing coefficients only if they meet the declared construction deadline.

Since the maximum period of applying an increasing coefficient is 10 years, any delay apart the declared launch date will lead to the decreasing of the 10-years beneficial period commensurately with the delay.

New tariff rules will not apply to:

- Power plants that have been commissioned before 20 May 2015,

- Power plants that are being constructed under investment agreements, which have been concluded and registered before 20 May 2015.

The said energy can be fed into the public grid according to the old rules. These entail the increasing coefficients, applicable before the new law's entry into force (please see the table below).

	Increasing coefficient*
Wind, biomass, biogas	1,3 (0,17 USD / kWh)
Hydro	1,1 (0,15 USD / kWh)
Solar	2,7 (0,36 USD / kWh)

*\*at prices as of 20 May 2015*

### 3. CONSTRUCTION OF PLANTS FOR OWN NEEDS

Companies that build plants solely for their own needs (for instance, biogas power plants installed at manufacturing enterprises and farms), will not be affected by the new rules:


- Quotas rules will not apply to them,
- Surpluses of produced energy may be fed into the public grid applying a stimulating tariff (0,85 as of 20 May 2015). However, increasing coefficients cannot be applied.

#### **New rules of the renewable energy market in Belarus:**

Energy, produced for own needs	Energy, produced for sale
<ul style="list-style-type: none"> <li>- No restrictions, no quotas</li> <li>- Energy surpluses may be sold to the public electricity grid network applying stimulating tariff (0,85 - 0,11 USD / kWh)*</li> </ul>	<ul style="list-style-type: none"> <li>- Quotas for construction and modernization of existing plants</li> <li>- New differentiated tariffs</li> <li>- Increasing coefficient may be applied for a 10-year period in case the declared construction deadlines are met</li> <li>- An investor is free to decrease feed-in tariff for the first 10 years of operation in regard to the specific power plant</li> </ul>

*\*at prices as of 20 May 2015*

In the light of above said the general trends of “green” energy regulation in Belarus are as follows: the amount and capacity of plants is under state control, renewable energy prices are gradually decreasing. Practical aspects of the new Decree implementation will only be available after the adoption of the relevant regulations by the Council of Ministers and the Ministry of Economy.

For further questions and information regarding the Decree of the President of the Republic of Belarus No.209 “On usage of renewable energy sources”, please contact Eugenia Urodnich, associate partner at VILGERTS Legal & Tax office in Belarus. 

## VILGERTS in Belarus

VILGERTS Minsk team assists foreign investors to successfully establish, develop and protect business in Belarus. Our international clients commend our expertise in high-profile commercial, corporate and dispute resolution cases.

We are commercially minded lawyers with an impressive academic background offering seamless full range business law services.

## Energy expert



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