New renewable energy regime: an overview

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Introduction

Argentina has the most potential for renewable energy production in the region due to its geographic location and climatic conditions. However, the vast majority of the country's energy comes from thermal energy plants. In order to change this scenario, the government has amended the Renewable Energy Act and issued a regulatory decree including new promotional schemes to foster investment in renewable energy projects and reduce the country's dependency on fossil fuels. This update examines the most recent regulation for renewable energy and the benefits granted by the federal government in that regard. It also provides an overview of the terms and conditions of the first renewable energy project contest, due to be launched by the Ministry of Energy on July 1 2016.

Existing energy situation

Argentina has an installed power capacity of 33,350 megawatts (MW). However its net capacity is closer to 25,500 MW due to the unavailability of existing thermal plants of up to 7,800 MW (ie, 23.4% of total power capacity). A record demand of 25,380 MW was registered in February 12 2016, illustrating Argentina's urgent need for investment in power generation projects.

The consumption of electricity in Argentina has grown by 4% annually over the last 10 years. To meet the ever-increasing demand, the federal government has resorted to short-term solutions and established numerous thermal energy plants near areas of peak demand.

The establishment of these power plants has caused an increase in natural gas and fuel demand that must be satisfied by imports due to declining local production and has had a major impact on the public budget. At present, the Argentine power matrix comprises:

- 57.1% thermal power;
- 36.2% hydropower;
- 5.3% nuclear power;
- 1% imported power; and
- 0.4% renewable energy (wind and solar power).

Renewable Energy Act

The need to diversify Argentina's power matrix is not solely due to economic reasons; environmental issues also play an important role. To reduce dependence on hydrocarbons and encourage the diversification of power generation sources, Argentina enacted Law 26,190 in 2006, which established a national promotional scheme for the use of renewable energy sources in the production of electricity in order to attract investment and diversify the energy matrix.

Law 26,190 covered the following renewable energy sources:

- wind power;
- solar power;
- geothermal energy;
- tidal energy;
- wave energy;
- hydraulic energy up to 50 megawatts (MW);
- biomass energy;
- landfill gases;
- sewage-treatment plant gas; and
- biogas and biofuels.

Law 26,190 declared that renewable energy generation was of national interest, which resulted in the introduction of promotional measures, including:

- a 10-year goal of producing at least 8% of national electric power through renewable energy sources;
- the creation of an investment programme for the construction of new generation plants to produce renewable energy for the spot market or public services; and
- additional compensation for renewable energy generation with public funds.

In accordance with Law 26,190, the former Federal Secretariat of Energy issued Resolution 712/2009, which created GENREN – the national promotion scheme for the use of renewable energy sources – and instructed state energy company Enarsa to call for tenders for the construction, operation and maintenance of renewable power generation projects. Enarsa awarded contracts for wind, biofuel, solar and small hydroelectric generation projects amounting to 895 MW.

Under GENREN, the companies selected entered into an energy purchase agreement with Enarsa for 15 years. Enarsa sold the electricity generated under this programme to CAMMESA (the company that administered the national power market) to satisfy spot market demand. The promotional prices were paid to the companies using public funds.

Only 10% of projects under GENREN were implemented; the rest were cancelled due to a lack of financing.

New renewable energy regime

In October 2015 Law 27,191 was introduced. It amended Law 26,190 and introduced new provisions to promote the development of renewable energy sources throughout the country.(1)Law 27,191 set the following targets for the percentage of the country's electricity supply that must come from renewable sources:

- 8% by December 31 2017;
- 12% by December 31 2019;
- 16% by December 31 2021;
- 18% by December 31 2023; and
- 20% by December 31 2025.

Distributors and large energy consumers must achieve the above-mentioned targets individually. Energy from renewable resources may be obtained from self-generation or purchased through contracts at a maximum price of $113 per MW hour. The maximum price is established by law and can be modified only by the Ministry of Energy.

To foster new projects, Law 27,191 has established a promotional regime consisting of the following tax benefits that vary depending on whether a renewable energy project starts before or during December 2016, December 2017, December 2021 or December 2025:

- Renewable energy projects will be eligible for the accelerated amortisation of income tax on assets or infrastructure included as part of the project;
- A refund of value added tax (VAT) on assets or infrastructure included as part of the project will be available;
- Projects will be eligible to receive income tax and VAT benefits simultaneously;
- The period for deducting tax losses for income tax purposes may be extended from five to 10 years;
- Assets used for the project will not be part of the tax base for minimum presumed income tax for eight years, counted from the beginning of construction work;
- Dividends or profits distributed by the holders of investment projects will not be subject to income tax, provided that they are reinvested in new infrastructure projects in Argentina (the general income tax rate for dividends is otherwise 10%);
- The losses, interest and exchange differences arising from financing a project may be deducted for income tax purposes;
- Beneficiaries that can prove that 60% of electromechanical equipment used in a renewable energy project – excluding in civil works – was manufactured in Argentina will be entitled to a tax-free allowance from federal taxes equivalent to 20% of the equipment's value; and
- The importation of goods or any other special equipment required for the project will be exempt from import tax and other related taxes (excluding service fees).

Law 27,191 also created the Trust Fund for Renewable Energy Projects Development (FODER), a fund for financing renewable energy projects which will be funded by the National Treasury using a minimum of 50% of the savings made from shifting from fossil fuels to renewables, estimated to be $41 billion by 2025. To fulfil its aim, FODER can provide loans and capital contributions to companies which undertake renewable energy projects.

In order to obtain tax benefits and financing from FODER, a project must be examined and approved by the Ministry of Energy. The applicant must detail the tax benefits required and estimate the total in US dollars. The application must be coupled with corporate information, financial statements from the last fiscal period

and tax compliance information. To start the filing process, a company must have a corporate presence in Argentina (ie, a branch or subsidiary registered with the Public Registry of Commerce) and to be registered with the Federal Tax Bureau.

The applicant must provide the following information regarding the project:

- a description of the project;
- details of where the project will be located and the respective property title or contracts to use the property;
- reports and information on the availability of the renewable source that the project will use (eg, solar or wind maps);
- details of the technology to be used for generation;
- production estimates;
- environmental licences granted by the municipal or provincial authorities where the project will be located;
- a power generation licence granted by the Ministry of Energy;
- proof of approval to access the national grid;
- a start date;
- details of the interconnection point to the Argentine electricity market
- an estimated commercial operation date; and
- performance guarantees equivalent to 10% of the aggregate value of the tax benefit being applied for.

The Ministry of Energy will conduct a technical, economic and financial evaluation of the project. It will consider the impact that the project may have on local industry. According to the regulation, projects with the largest local component and shortest execution period will receive a better score.

If the project is approved, the Ministry of Energy will give it a score and it will be ranked according to that score.

Tax benefits are limited to a percentage of the annual public budget determined by the Ministry of Economy. For that reason, limited tax benefits will be granted by the Ministry of Energy to projects with the best scores. Successful projects will receive a certificate of inclusion in the renewable promotional regime issued by the Ministry of Energy, which will detail the respective tax benefits applicable to such projects.

Renewable energy project contest

In order to achieve the targets of Law 27,191, the Ministry of Energy issued Resolution 71/2016 on May 18 2016, starting the public call for procurement of electricity from renewable generation (the Renew Programme Round 1) through a renewable energy project contest.

The draft contest documents were published on May 23 2016 and a 20-day consultation period will follow. The ministry will receive comments, observations and suggestions on the preliminary documents from companies interested in participating in the contest. Once the consultation period is over, the Ministry of Energy will evaluate the comments and observations before conducting a final review of the contest documents.

The final version of the contest documents will be published on July 1 2016. Offers will be submitted on August 22 2016 and the successful candidates will be announced on September 28 2016.

The aim of the contest is to award projects for a total of 1,000 MW comprising:

- 600 MW from wind power projects;
- 300 MW from solar power projects;
- 65 MW from biomass power projects;
- 20 MW from small hydroelectric power projects; and
- 15 MW from biogas power projects.

The projects will be distributed throughout the country. Patagonia is the area with the greatest potential for wind power projects and the northern region for solar power projects. It is estimated that the awarded projects may require investments of up to $210 billion.

The contest aims to diversify:

- the use of renewable energy sources between different technologies for commercial-scale supply; and
- the geographic location of projects.

Renew Programme Round 1 is the first of many contests with the aim of producing 3,000 MW from renewable sources by December 2019. The Ministry of Energy aims to undertake new contests quarterly to achieve the targets demanded by law.

Companies with successful projects will execute a power purchase agreement with CAMMESA,**(2)** acting on behalf of distribution companies and large consumers. The terms of a power purchase agreement will be valid for 20 years from the commercial operation date.

The price of energy to be delivered on an hourly basis and the price of capacity availability per month will be communicated in US dollars, but will be paid in Argentine pesos at the exchange rate on the respective payment day.

The power purchase agreement price will passed on to consumers and paid by the respective distributors or large consumers, rather than by CAMMESA with public funds. In order to attract investments and reduce the financing costs, payment of the power purchase agreement price will be guaranteed through funds provided by FODER. The World Bank is expected to provide a guarantee to FODER in the case of the National Treasury's failure to provide the funds required.

Comment

Argentina's record power demands in 2016 underline the urgent need for investment in new generation projects. The generation of electricity should come from renewable sources, not only to reduce the dependence on fossil fuels, but also to reduce fuel import costs.

Argentina has launched a number of benefits, tax relief measures and financing incentives for private investment to turn renewable energy generation into an attractive investment option. Significant growth in investment in the renewable energy sector is expected as a result of Law 27,191, the renewable energy project contests and the gradual improvement in the general business environment due to the government's latest economic reforms.

Thanks to abundant natural resources and favourable geography, Argentina is expected to become one of the leading countries for wind power and solar energy in future. The opportunities to invest are also extended to the transport and distribution sectors with the aim of improving existing facilities, but also including future power generation projects in the energy system.

Certainly, Argentina is a country to watch regarding investment in power energy projects.

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Endnotes

(1) Law 27,191, Article 2(a).

(2) Act 24,065 established CAMMESA as the Argentine electricity market administrator to coordinate technical and economic dispatch operations and to meet energy demand at the lowest cost compatible with the volume and quality offered. Its responsibilities include setting wholesale prices and the management of economic transactions that take place in the market. On instructions received from the Ministry of Energy, CAMMESA may also execute power purchase agreements to supply the spot market. CAMMESA is a private company with a public purpose. Each of the following own 20% of CAMMESA:

- the national government;
- AGEERA, an association representing the interest of generation companies;
- ATEERA, an association that represents the interest of transmission companies;
- ADEERA, an association that represents the interest of distribution companies; and
- AGUEERA, an association of large consumers.

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