

Ukraine: new local content determination procedure for renewable projects

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On 27 June 2013 the National Commission on the State Regulation of the Energy Sector (NERC) adopted a procedure for calculating the "local content" ("LC") share in renewable energy power plants ("**LC Procedure**"). The LC basically refers to those goods and services of Ukrainian origin; a certain amount of which has to be used in the construction of a renewable energy power plant if a renewable energy project intends to benefit from the Green (feed-in) Tariff. The LC Procedure provides the rules and formulae for the calculation of the LC share (i.e. the share of such goods and services out of the total construction value of the power plant) and allows investors to assess their projects' eligibility for the Green Tariff, and therefore their profitability.

The adopted LC procedure is applicable **only to power plants where construction was certified as complete and compliant with building regulations after 1 July 2013**. Those renewable energy plants which were constructed and certified as complete before 1 July 2013 shall be guided by the NERC Resolution No. 749 dated 15 June 2012.

LC Calculation Formula

The LC Procedure provides that the LC share shall be calculated according to the following formula:

$$LC_{Object} = E_1 + E_2 + \dots + E_n$$

where:

LC_{Object} is the total LC contributed to the construction of the relevant renewable power generation object (i.e. each separate renewable power plant or stage thereof, where the construction was certified as complete and compliant with building regulations in a manner provided by the law);

E_n is the Fixed LC Share of the LC element of Ukrainian origin in the relevant renewable power generation object (detailed explanation is provided below).

In order to be eligible for the Green Tariff, the applicants will be required to ensure that the total LC of the object shall not be less than the LC rate set by the law:

$$LC_{Object} \geq LC_{set\ by\ the\ law}$$

where:

LC_{set by the law} is the minimum permitted LC rate fixed by the law depending on the type of alternative energy source and the date on which the power plant is put into operation. The LC rates are as follows:

For **wind, solar and biomass power plants**, if put into operation:

- (a) between 1 July 2013 and 1 July 2014 – 30%; and
- (b) after 1 July 2014 – 50%.

For **biogas power plants** put into operation:

- (a) after 1 January 2014 – 30%; and
- (b) after 1 January 2015 – 50%.

Fixed LC Shares

Ukrainian law provides that the LC is actually represented by a number of LC elements, such as certain parts and equipment of the power plant or the construction and assembling works. The LC elements are obviously different for each type of alternative energy power plant and each such LC element corresponds to a certain percentage, called the "**Fixed LC Share**", of the total construction value of the power plant. The tables below specify such LC elements for each type of renewable energy power plant and show their equivalent in Fixed LC Shares.

Wind power plants:

LC elements	Requirements	
	Operations to be performed in Ukraine	Fixed LC Share, %
Rotor blades	Production	15
Tower	Production	15
Nacelle	Assembling	30
Main frame	Production	5
Main shaft	Production	5
Rotor	Production (casting)	5
	Assembling	5
Construction works	Performance	20
TOTAL		100

Solar power plants:

LC elements	Requirements	
	Operations to be performed in Ukraine	Fixed LC Share, %
Polycrystalline silicon	Production	32
Mono-, multi- and quasimonocrystalline ingot	Production	13
Mono- and multicrystalline wafers	Production	7
PV elements	Production	20
PV moduls	Assembling	23

Construction works	Performance	5
TOTAL		100

Biomass power plants:

LC elements	Requirements	
	Operations to be performed in Ukraine	Fixed LC Share, %
Turbine	Production	25
Boiler	Production	35
Construction works	Performance	40
TOTAL		100

Biogas power plants:

LC elements	Requirements	
	Operations to be performed in Ukraine	Fixed LC Share, %
Digester	Production	35
Co-generator	Production	35
Construction works	Performance	30
TOTAL		100

Ukrainian Origin of LC Elements

According to the LC Procedure, LC elements will be deemed to have Ukrainian origin if:

- (a) the origin of parts or equipment is confirmed (i) either by a certificate of origin, issued by the Ukrainian Chamber of Commerce and Industry or its regional offices, or (ii) by other documents proving that operations with respect to such LC elements were carried out in the manner required by the law; and
- (b) an entity that has performed construction works (i.e. general contractor and/or each of the contractors) is registered in Ukraine, as evidenced by an extract from the relevant state register (the Unified State Register of Legal Entities and Individual Entrepreneurs).

It is important that LC elements comprise only of components originating from Ukraine. For example, if only 99 of 100 rotor blades used in the construction stage of a wind farm were produced in Ukraine, while the remaining one was manufactured abroad, the Fixed LC Share of the rotor blades will not be credited towards the LC share of this construction stage.

At the same time, some LC elements of Ukrainian origin may be imported to Ukraine as part of other equipment produced elsewhere (e.g., PV modules which are assembled in Germany but using Ukrainian polycrystalline silicon). In this case the LC Procedure requires that the Ukrainian origin of the LC elements be confirmed by the

relevant certificate, issued by a competent authority of a foreign state. Such certificate must describe the various stages of the manufacturing process where Ukrainian LC elements were used.

Procedural Issues

The calculation of the LC must be performed by the Green Tariff applicant itself, but supporting documents are subject to NERC's review and approval. Following the application NERC will have 30 calendar days to review the documents, verify the results of the calculation and ultimately decide upon the compliance with the LC requirements and the overall eligibility of the renewable energy power plant for the Green Tariff.

The NERC will also be responsible to maintain the so-called "list of LC elements of Ukrainian origin used in respect of each alternative source of energy", which will include those LC elements of Ukrainian origin that have already been used for other projects enjoying the Green Tariff. The list will be updated within one week once the LC element is validated by the NERC and will be publicly available on the NERC's web site. The purpose of such list is to prevent the malpractice of using the same pieces of equipment for different power plants. The NERC will not accept calculations of an LC share based on LC elements that have already been included in such list.

LAW: the NERC Resolution No 744 "On Approval of the Procedure for Calculation of the Rate of Local Content for the Objects of Power Industry, Including the Commissioned Stages (Start-up Complexes) of the Power Plants That Produce Electricity From Alternative Energy Sources (Save for the Blast Furnace and Coke Gases)" dated 27 June 2013

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