

Schoenherr - Romania: A second chance for the renewables sector?

The Romanian Ministry of Energy recently finalised the public debate of a document outlining a new mechanism for supporting low-carbon electricity generation, in the form of a Contract for Difference (CfD) scheme.

For over 10 years, Romania has applied a green certificates support scheme that covers projects commissioned until the end of 2016. The scheme has undergone numerous changes that substantially reduced the original support, leading to a steep decline in investor confidence.

The proposed new scheme is inspired by the British CfD system, targeting both the renewables and the nuclear sector.

In a nutshell, eligible producers enter into a private law contract (CfD contract) with the nominated counterparty and agree on a "strike price". Producers sell electricity on the competitive market; if the market price (reflected in the so-called "reference price") falls below the strike price, the counterparty will reimburse producers the difference. Likewise, if the market price exceeds the strike price, the producers will reimburse the difference to the counterparty.

Here is a brief outline of the key features of the envisaged CfD system:

Beneficiaries

- The scheme is aimed at low-carbon technologies, such as wind, solar, bioenergy, hydro energy, nuclear and fossil fuels using carbon capture and storage technologies.
- While access to the scheme will generally be based on auctions (allocation rounds), base-load technologies (e.g. nuclear) may be subject to an individually negotiated CfD contract.

Funding

- The CfD scheme will be funded by end consumers through the energy bill, which will include the CfD contribution as a separate item. Funds will be collected by the licensed balancing responsible parties, which are financially liable for covering imbalances in the energy market.
- It is intended to cap the scheme to a global amount of EUR 125m per year for renewables projects and EUR 215m per year for nuclear projects.

Counterparty

- The counterparty of the CfD scheme will be OPCOM S.A., the Romanian power and gas market operator. OPCOM will enter into the CfD contracts with the eligible producers, collect and allocate the funds, and monitor the CfD beneficiaries throughout the lifespan of the scheme.

Duration

- The scheme will be valid until the investment is recovered, in correlation to the lifespan of the project.

Price and adjustments

- The "reference price" will be set annually as the average price on the day-ahead market (in Romanian: Piața pentru Ziua Următoare), a platform on the centralised market operated by OPCOM during a period still to be determined.

→ The strike price will be set either by way of an auctioning mechanism or in case of one-off projects (as is the case of Units 3 & 4 at the Cernavoda Nuclear Power Plant), by way of direct negotiations. Although the strike price should be a fixed parameter throughout the lifespan of the scheme, certain adjustments are foreseen (e.g. indexation to the inflation rate, increases in the network tariffs).

→ For projects with a long lifespan, a clawback mechanism will be put in place to ensure that excess profits are shared.

"Two-way" CfD

→ The scheme is structured as a "two-way" CfD. Hence, if the difference between the strike price and the reference price in any given year is positive, the designated counterparty will reimburse the balance to the producer, and if the difference is negative (i.e. the strike price is lower than the reference price), the producer will reimburse the balance to the counterparty.

CfD contract

→ Eligible parties may enter into a CfD contract already in the development phase, thus facilitating the financing of the project. The CfD contract will be regulated and will contain certain key terms, including specific conditions precedent and subsequent and related penalties. It will also contain Change in Law and Change in Tax clauses, aimed at securing long-term certainty and predictability for investors.

The outline published by the Ministry of Energy indicates that the new scheme might be enforced as of 1 January 2020. This seems rather optimistic given the legal framework that needs to be put in place and, more importantly, the fact that the scheme will be subject to state aid clearance by the European Commission.

The outline does not address the impact in the electricity bill of the current green certificates scheme running parallel to the CfD system until 2031. This needs to be explored with a view to building trust in the sustainability of the new scheme over the long term.