

Italy: The 2019-2020 incentives regime for renewable energy plants



The so-called “**FER1 Decree**” enacted in 2019 provides to renewable energy plants incentives of about €1 billion per year and aims at supporting the development of approximately 4.8 GW of generating capacity until 2021. During the final three rounds in 2021, the contracted capacity will be 2,3 GW. Sources benefiting from the scheme include onshore wind, solar PV, hydroelectric and sewage gases. The scheme will apply until the end of 2021 and will provide new incentives of about €1 billion per year. The government expects that it will allow for the construction of new plants with a total capacity of about 8,000 MW with investments estimated to be in the region of €10 billion.

This article has been updated in December 2020 to reflect the latest legislative updates implemented by the Italian authorities to address the consequences of the spread of the COVID-19.

Italy: New Incentives Regime for Renewable Energy Plants

SUMMARY

Under the FER1 Decree, renewable energy source (“RES”) plants with a nominal capacity exceeding 20 KW are admitted to the new incentive mechanism.

Projects below 1 MW will be selected based on a combination of environmental and economic priority criteria. For larger projects, the incentive will be set through a competitive bidding process open to all types of installations, irrespective of the renewable technology used.

Successful projects will receive support in the form of a premium on top of the zonal hourly market prices. This premium cannot be higher than the difference between the applicable tariff for each renewable technology and the zonal hourly market prices.

The FER1 Decree includes a clawback mechanism to ensure that the governmental support is limited to the minimum necessary: If, in the future, the market price were to move above the applicable tariff for each renewable technology, the selected installations not only would no longer receive a premium but they would instead have to give back to the Italian authorities the additional revenue.

In awarding incentives, the FER1 Decree gives priority to:

- plants built on closed landfills and on sites of national interest for the purpose of reclamation;
- integrated photovoltaic systems built on schools, hospitals and other public buildings or on rural buildings with the removal of asbestos; those plants will be entitled to an additional premium of 12 €/MWh;
- hydroelectric plants complying with the criteria set by the previous Ministerial Decree of 23 June 2016;
- plants fueled by sewage gas or processing fermentation residues;
- plants connected in “parallel” with the electricity grid and with recharging stations for electric vehicles (provided that the recharging power is not less than 15% of the plant’s power and that each station has a power of at least 15 kW).



ELIGIBLE PROJECTS

The FER1 Decree applies to RES plants which are not already incentivized under previous feed-in tariffs schemes, nor under the Ministerial Decree of 23 June 2016. Ministerial Decree of 23 June 2016 (and thus not the FER1 Decree) continues to apply to RES plants enrolled in the registers and reverse auctions provided thereunder.

Eligible projects must have a nominal capacity in excess of 20 kWp, as smaller plants can already benefit from tax bonuses.

Eligible technologies under the FER1 Decree are:

- Wind (onshore only);
- PV Solar;
- Hydro (running water and reservoir/basin); and
- Sewage gases.

Notably, plants located in other EU member states (or in a third neighboring state having a free trade agreement with the EU) which physically export electricity to Italy can also apply for incentives under the FER1 Decree. However, they cannot have access to the incentives through registers, but can only participate in the reverse auction system described below.

INCENTIVE SCHEMES

Depending on the technology and on the nominal capacity of the plant, different criteria for the calculation of the incentives apply.

RES plants up to 250 kW are entitled to receive an overall feed in tariff,

which includes the sales price for the electricity, which will be withdrawn by the GSE (the state-owned company paying the incentives – *Gestore dei Servizi Energetici S.p.A.*). The feed-in tariff is granted for the entire duration of the pre-defined life-cycle of the plant, which varies depending on the source:

| Source | Type | Power (kW) | Plant Average lifecycle (Years) | Overall Feed-in Tariff (Euro/MWh) |
|----------------------------|---------------|------------|---------------------------------|-----------------------------------|
| PV Solar ¹ | | 20<P≤100 | 20 | 105 |
| | | 100<P≤1000 | 20 | 90 |
| | | P>1000 | 20 | 70 |
| Wind ² | Onshore | 1<P≤100 | 20 | 150 |
| | | 100<P≤1000 | 20 | 90 |
| | | P>1000 | 20 | 70 |
| Hydro | Flowing water | 1<P≤400 | 20 | 155 |
| | | 400<P≤1000 | 25 | 110 |
| | | P>1000 | 30 | 80 |
| | Basin water | 1<P≤1000 | 25 | 90 |
| | | P>1000 | 30 | 80 |
| Sewage treatment plant gas | | 1<P≤100 | 20 | 110 |
| | | 100<P≤1000 | 20 | 100 |
| | | 100<P≤1000 | 20 | 80 |

1. PV plants replacing asbestos coverings or rooftops are entitled to an increase of € 12/MWh

2. In case the wind plants qualified with the registers mechanism and using regenerated components, the incentive is reduced by 10%.

RES plants with a nominal capacity above 250 kW but below 1 MW are entitled to an incentive equal to the difference between the above indicated overall feed-in tariff and the hourly zonal electricity price.

RES plants with a nominal capacity above 1 MW are entitled to an incentive equal to the difference between the above indicated overall feed-in tariff, as reduced by the percentage indicated in the bid for the auction, and the hourly zonal electricity price.

Both the plants under the registers and those under the auctions have to sell the generated electricity privately or through the electricity market.

In case of a negative difference between the above indicated overall feed-in tariff and the zonal hourly price, i.e. in case of the zonal hourly price exceeding the guaranteed tariff, the GSE either offsets the payment or requests the producer to pay the difference to the GSE. In case of hourly zonal prices equal to zero or negative for more than six consecutive hours, the incentives are suspended; the duration of the incentives is hence extended by the duration of such suspensions.

To determine the nominal capacity of the plant, the anti-splitting rules contained in Ministerial Decree 23 June 2016 are applied: the GSE is entitled to evaluate any possible element of one plant being artificially split into multiple smaller ones. For example, the use of the same connection point to the electric grid by multiple plants belonging to the same owner would constitute evidence of artificial splitting.

ACCESS TO INCENTIVES

The FER1 Decree provides for two regimes to access incentives:

- plants with a capacity < 1 MWp have direct access through a ranking systems
- plants with a capacity > 1 MWp have to go through a reverse auction system

In either case, there will be seven rounds, the first two of which have already been concluded when this article was last updated:

| Round | Opening date |
|-------|-------------------------------|
| 1 | 30 September 2019 (completed) |
| 2 | 31 January 2020 (completed) |
| 3 | 31 May 2020 (completed) |
| 4 | 30 September 2020 |
| 5 | 31 January 2021 |
| 6 | 31 May 2021 |
| 7 | 30 September 2021 |

It is possible for plants to participate to the registers or auctions as a cluster, provided however that the nominal power of each plant within the cluster exceeds 20 kWp; the nominal power of each plant constituting the cluster will be assumed as the overall nominal power of the cluster.

Upon the above indicated opening dates, the GSE will open:

- one ranking system and one reverse auction open only to PV and wind plants (Group A);
- one ranking system open only to PV plants installed to replace an asbestos rooftop or covering (Group A-2);
- one ranking system and one reverse auction open only to hydro, and sewage treatment gas (Group B);
- one ranking system and one reverse auction open only to refurbished wind or hydro or sewage treatment gas plants (Group C).

All plants applying for the incentives should already hold the building and operating permit and the acceptance of the grid connection solution (*preventivo di connessione – STMG*).

Within 30 days³ as of the start of the operation, the owner of the plant has to request to the GSE the applicable tariff; if such deadline is met, the GSE grants the incentives as of the date of the commercial start of operation. If the incentives request is submitted after the 30-day term, the tariffs are granted as of the date of submission of the relevant request and the relevant duration is therefore shorter (i.e. the plant is not entitled to receive the incentives for the production between the commercial start of operation date and the incentives request submission date).

Specific requirements for PV plants

PV plants will only have access to the incentives provided under the FER1 Decree if they are:

- newly built PV plants;
- using newly manufactured components only; and are
- not installed on agricultural land.

Premium for asbestos removal

PV plants installed on rooftops to replace asbestos coverages are particularly favoured by the FER1 Decree: in each round of registers there is a specific group reserved to them; and a €12/MWh premium is granted in addition to the base incentive. Such a premium is paid on the produced electricity, irrespective of whether it is fed in the grid or self-consumed.

3. If the deadline falls between 23 February 2020 and 15 May 2020, the 30-day term runs as of 16 May 2020 – due to the COVID-19 extraordinary measures.

RANKING SYSTEM

Plants below 1 MWp must be enrolled in a register to be open by the GSE accordingly with the above calendar, provided that the maximum power thresholds (in MWp) below are not exceeded.

| Round | Group A (PV and Wind) | Group A-2 (PV replacing asbestos) | Group B (Hydro and Sewage Gases) | Group C (Refurbished Wind, Hydro and Sewage Gases) |
|-------|--------------------------|--------------------------------------|-------------------------------------|---|
| 1 | 45 MW | 100 MW | 10 MW | 10 MW |
| 2 | 45 MW | 100 MW | 10 MW | 10 MW |
| 3 | 100 MW | 100 MW | 10 MW | 10 MW |
| 4 | 100 MW | 100 MW | 10 MW | 10 MW |
| 5 | 120 MW | 100 MW | 10 MW | 20 MW |
| 6 | 120 MW | 100 MW | 10 MW | 20 MW |
| 7 | 240 MW | 200 MW | 20 MW | 40 MW |
| Total | 770 MW | 800 MW | 80 MW | 120 MW |

Within 30 days as of the closing of each register, the rankings are drawn up based on the following priority criteria:

Group A:

1. installations on depleted landfills;
2. depleted quarries and mines;
3. areas of pertinence to landfills or contaminated sites.

Group A2:

Plants installed on:

1. schools;
2. hospitals; and
3. other public buildings.

Group B:

- **Hydro plants:** plants that respect the constructive characteristics of:
 1. Article 4(3)(b)(i)
 2. Article 4(3)(b)(ii)
 3. Article 4(3)(b)(iii); and
 4. Article 4(3)(b)(iv)
 of Ministerial Decree of 23 June 2016;
- **Sewage treatment plant gas:** plants which provide for the covering of the digestate tanks;



Group C:

1. earlier start of operations date;
2. longest operation period without incentives;
3. for wind plants: lower amount of energy not produced in the last year, due to despatching order of the transmission grid operator;
4. earlier date of completion of the request to participate to the register or auction.

All groups (the following criteria have ranking priority over the ones above):

1. plants connected in parallel with the electricity grid and with power supply columns charging of electric cars, provided that the total charging power is not less than 30% of the power of the system and that each column has a power exceeding 15 kW;

2. clusters of plants;
3. the highest tariff reduction offered on the base incentives;
4. date of completion of the request to participate in the procedure.

Should the construction works for a successful project not be completed within 15 months from the communication of the award of the incentive, the awarded tariff will be reduced by 1%. In response to the COVID-19 outbreak, the GSE has extended such term by (i) 12 months for projects having been the awarded incentives in the first round of registers; (ii) 248 days for projects having been the awarded incentives in the second round of registers; and (iii) 129 days for projects having been the awarded incentives in the second round of registers.

REVERSE AUCTION

Plants from 1 MWp can access incentives through the reverse auction system, which is opened seven times between September 2019 and 2021 for the MW budgets indicated in the table:

| Round | Group A (PV and Wind) | Group B (Hydro and Sewage Gases) | Group C (Refurbished Wind, Hydro and Sewage Gases) |
|-------|--------------------------|--|---|
| 1 | 500 MW | 5 MW | 60 MW |
| 2 | 500 MW | 5 MW | 60 MW |
| 3 | 700 MW | 10 MW | 60 MW |
| 4 | 700 MW | 15 MW | 60 MW |
| 5 | 700 MW | 15 MW | 80 MW |
| 6 | 800 MW | 20 MW | 100 MW |
| 7 | 1600 MW | 40 MW | 200 MW |
| Total | 5500 MW | 110 MW | 620 MW |

In order to apply for the reverse auction system, the applicant should submit: (i) a comfort letter issued by a financial institution, attesting the economic and financial soundness of the responsible subject, or its undertaking to finance the project; or (ii) an adequate capitalization in relation to the project; and (iii) a provisional bank guarantee equal to 5% of the investment value.

The auction base price is equal to the overall feed-in tariff indicated in the table above for the highest power threshold for each source. Offered reductions must be at least 2% and must not exceed 70%, otherwise they are excluded from the procedure. If, during one auction, there are two or more bids

accepting a reduction of 70%, then in the next auction the reduction may be up to 80%; during such a second auction, in case of two or more bids with a reduction of 80%, in the next auction the reduction may be up to 90%.

The first priority criteria is the highest reduction bid on the base tariff; in case of equal reduction bids, the following priority criteria (in the following order) apply:

All groups:

Possession of a legality rating, as defined in Article 5-ter of FER1 Decree-Law No 1 of 2012, converted by Law No. 27 of 2012, equal to at least two "stars".

Group A:

Plants installed on

1. depleted landfills;
2. depleted quarries and mines;
3. areas of pertinence to landfills or contaminated sites;

Group B:

- **Hydro plants:** plants that respect the constructive characteristics of:
 1. Article 4(3)(b)(i)
 2. Article 4(3)(b)(ii)
 3. Article 4(3)(b)(iii); and
 4. Article 4(3)(b)(iv)
- **Sewage treatment plant gas:** plants where digestate tanks are covered.

Group C:

1. earlier start of operations date;
2. longest operation period without incentives;
3. for wind plants: lower amount of energy not produced in the last year, due to despatching order of the transmission grid operator;
4. earlier date of completion of the request to participate to the register or auction.

All groups:

Date of completion of the request to participate in the procedure.

After the publication of the final list of successful bidders, the GSE returns the bank guarantee to the unsuccessful bidders; within 90 days the winning bidders should replace the provisional bank guarantee by a final bank guarantee of more than 10% of the investment value. In case a winning bidder does not issue the final bank guarantee in time, GSE will enforce the provisional guarantee. In consideration of the COVID-19 outbreak, the GSE has extended such term to 18 July 2020 for projects having been the awarded incentives in the first round of auctions.

Should the construction works for a successful project not be completed within 15 months from the communication of the award of the incentive, the awarded tariff will be reduced by 1% per each year of delay. In response to the COVID-19 outbreak, the GSE has extended such term by (i) 12 months for projects having been the awarded incentives in the first round of registers; (ii) 248 days for projects having been the awarded incentives in the second round of registers; and (iii) 129 days for projects having been the awarded incentives in the third round of registers.

The GSE releases the final guarantee on the date of execution of the incentives agreement.

REFURBISHMENT OF PLANTS

Refurbishments of already operating plants can access to the incentives under the FER1 Decree, provided that they meet the certain requisites, and in particular:

- they have reached at least 2/3 of their life-cycle
- they do not benefit of state incentives on the electricity produced, as at the date of publication of the relevant procedure by the GSE
- provisions under Ministerial Decree 6 November 2014 are respected

The FER1 Decree sets forth limited thresholds depending on the kinds of refurbishments, and in case that the power requested with the applications exceeds the available power eligible for incentives, the GSE publishes a list of the awarded entities, formed on the basis of the priority criteria indicated above.

TIMELINES FOR COMPLETION AND COVID-19 EXEMPTION

The FER1 Decree sets forth different timelines of completion of construction or refurbishing works, the excess of which entail either a reduction or a full loss of the incentives. In particular:

Projects that have been awarded a tariff through the Ranking System must be completed and start operations

within the following deadlines, which start running as of the publication of the ranking:

| Source | Months |
|--------------------|-----------------|
| Onshore Wind | 24 |
| PV Solar | 19 ⁴ |
| Hydro ⁵ | 31 |
| Others | 31 |

If the above deadlines are not met, a 0.5% reduction of the incentive applies per each month of delay, up to a maximum of six months. If the start of operations is delayed by more than six months, the plant will fully lose its right to the incentives.

Similarly, refurbished plants must start operations within certain deadlines, which start running from the communication, by the GSE, of the positive outcome of the auction:

| Source | Months |
|--------------|--------|
| Onshore Wind | 16 |
| Hydro | 36 |
| Sewage Gases | 24 |

Here again, a 0.5% cut is provided for each month of delay, up to a maximum of eight months, after which entitlement to tariffs is fully lost.

4. Group A-2 PV plants have 24 months.

5. In case of geological works, the term is extended up to 39 months.

Finally, new construction projects that have been awarded an incentive through the reverse auction system, must start operations within the following deadlines, which run from the communication, by the GSE, of the positive outcome of the auction.

| Source | Months |
|--------------|--------|
| Onshore Wind | 31 |
| PV Solar | 24 |
| Others | 51 |

In case the deadlines above are not met, the plant loses its right to the tariffs and the GSE enforces the bank guarantee.

The above terms are to be calculated net of any events of force majeure hindering the construction or refurbishing works. In December 20020, in response to the COVID-19 outbreak, the GSE has extended such term by (i) 12 months for projects having been the awarded incentives in the first round of auctions; (ii) 248 days for projects having been the awarded incentives in the second round; and (iii) 129 days for projects having been the awarded incentives in the third round.



EXPIRY OF THE FER1 DECREE

The FER1 Decree ceases to apply on the first date between (i) 30 September 2021; and (ii) the date on which the “average annual indicative cost” for incentives, excluding those granted to photovoltaic plants under Conto Energia I – V, will reach €5.8 billion.

As of the GSE statistics, on 30.10.2020, the average annual amount of such incentive payments has reached €5.273 billion. However, due to the natural expiry of the incentive periods under past incentives schemes, more resources will be freed in the next few months, and the GSE actually expects a decrease of the overall cost, so that 30 September 2021 appears a realistic timeline for the expiry of the FER1 Decree. In the meantime, the Italian government has started working on a next incentives scheme (FER2) to continue the governmental support after 2021.



For more information please contact:



Carsten Steinhauer

Partner, Rome

D +39 06 809 120 19

carsten.steinhauser@dentons.com



Riccardo Narducci

Associate, Rome

D +39 06 809 120 31

riccardo.narducci@dentons.com

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Dentons Europe Studio Legale Tributario

Ufficio di Milano
Piazza degli Affari 1
20123 Milano - Italia
T +39 02 726 268 00
F +39 02 726 268 08

Ufficio di Roma
Via XX Settembre 5
00187 Roma - Italia
T +39 06 809 120 00
F +39 06 806 904 09

italy@dentons.com
www.dentons.com

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