



### Waste to Energy: The alternatives to waste and energy problems

With its increasing population and urbanization, Thailand cannot escape from the mountains of solid waste generated in households and in communities across the country. The inappropriate disposal of solid wastes will cause serious ramifications which would be a national nightmare, such as air pollution, water pollution and contagious diseases. All of these issues are harmful not only in the environmental scale, but also in respect of the public health of each domestic sector.

The government has foreseen this catastrophic event and thus declared the solid waste problem as one of its national agendas. In compliance with the first revision of the Power Development Plan 2018 (the “**PDP 2018 Rev. 1**”), which aimed to improve energy efficiency and foster sustainable energy and, importantly, to encourage the participation of the public with respect to energy projects, the meeting of the National Energy Policy Council (the “**NEPC**”) no. 3/2022 held on May 6, 2022 approved the Feed-in Tariff (the “**FiT**”) for waste to energy project (the “**WTE Project**”) under the PDP 2018 Rev. 1. This approval allows the very small power producer (the “**VSPP**”) and the small power producer (the “**SPP**”) to sell the electricity generated from solid waste from the approved 34 WTE Projects to the Electricity Generating Authority of Thailand (the “**EGAT**”), Metropolitan Electricity Authority (the “**MEA**”) and/or Provincial Electricity Authority (the “**PEA**”) (collectively, the “**Electricity Authority**”) and receive payment for the sale of electricity on the FiT basis, with the total collective capacity of 282.98 MW and the Scheduled Commercial Operation Date (the “**SCOD**”) between 2025 and 2026.

Following this, the NEPC authorized the Energy Regulation Committee (the “**ERC**”) to introduce rules and regulations in relation

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to WTE Project. On June 2, 2022, the ERC announced a regulation regarding power purchases from the WTE Project, which was published in the Royal Gazette on June 15, 2022 (the “ERC’s regulation”). Any private sector operator who has already entered into the contract with the local administrative organization to participate in the approved WTE Project and wishes to sell electricity generated from such WTE Project to the Electricity Authority must submit the project to the EGAT by December 7, 2023 for their consideration and follow the procedures set forth in the notification of the EGAT regarding WTE projects issued on July 12, 2022.

Please find below a table summarizing the ERC’s regulation in respect of the general conditions and requirements for VSPP and SPP.






Topic	Details	
<b>Types of power producer</b>	<p><b>VSPP</b></p> <p>A power producer who entered into a power purchase agreement with the offered electricity in an amount not exceeding 10 MW.</p>	<p><b>SPP</b></p> <p>A power producer who entered into a power purchase agreement with the offered electricity in an amount exceeding 10 MW but not exceeding 90 MW.</p>
<b>Counter party of the power purchase agreement</b>	VSPP will enter into a power purchase agreement with MEA and/or PEA.	SPP will enter into a power purchase agreement with EGAT.
<b>Qualifications of the power producer</b>	<p>The ERC’s regulation requires the power producer producing electricity under the WTE Project to have the following qualifications:</p> <ol style="list-style-type: none"> <li>1. Being a private company under the Civil and Commercial Code of Thailand or a public company under the Public Company Act or any entity under the laws of Thailand;</li> <li>2. Having objectives for production and distribution of electricity; and</li> <li>3. Being a party to the WTE Project for electricity production with the local administrative organization.</li> </ol>	
<b>General requirements</b>	<p>To be a power producer under the WTE Project, the ERC’s regulation lists at least six (6) requirements that the power producer must fulfill, detailed as follows:</p> <ol style="list-style-type: none"> <li>1.  Land</li> </ol>	

## About Us

### Projects and Energy Practice Group

Kudun and Partners has a broad range of experience in all aspects of the energy industry including solar farms, solar rooftops, wind farms, Waste-to-energy (WtE) and natural gas power plants. We leverage our unparalleled business and legal prowess assisting clients from inception to completion of a project, throughout the project’s operational lifecycle. Our services include providing advice on FDI regulations, incentives by the BOI, company incorporation, corporate structure, tax structuring, acquisition and joint venture agreements, bid preparation, contract negotiation, and project financing.

Our award-winning work includes representing **B. Grimm Power and Energy China Consortium** in the successful bid and development of the world’s largest hydro-floating solar hybrid power project at Sirindhorn dam by the Electricity Authority of Thailand (EGAT) worth over THB 842 million (approximately USD 27 million).

	<ul style="list-style-type: none"> <li>(a) Having land ownership, possession rights, or the right to use the land over the area being utilized for the WTE Project; and</li> <li>(b) The location of the land for the relevant WTE Project must be in compliance with other applicable laws, e.g., Zoning laws or the Building Control Act.</li> </ul>		
	<p><b>2.  Technology</b></p> <ul style="list-style-type: none"> <li>(a) Having a plant layout;</li> <li>(b) Having a single line diagram certified by engineers in accordance with engineering laws;</li> <li>(c) Having a process flow diagram; and</li> <li>(d) Having other technical information as requested by the Electricity Authority.</li> </ul>		
	<p><b>3.  Investment Funds</b></p> <ul style="list-style-type: none"> <li>(a) Having estimated the value of the project;</li> <li>(b) Having a registered capital of no less than THB 2 million per 1 MW of installed capacity;</li> <li>(c) Having financial support from a commercial bank, or credit facility with the evidence in writing showing that the financial support or credit facility in place has a value of not less than 50 percent of the estimated value of the project;</li> </ul>		
	<p><b>4.  Procurement of fuel</b></p> <p>The power producer must be capable of procuring fuel throughout the term of the power purchase agreement.</p>		
	<p><b>5.  Experiences</b></p> <p>The power producer must have written evidence confirming the experience of the project developer or personnel for electricity production.</p>		
	<p><b>6.  Capable Electricity</b></p> <p>The power producer must have in place a capable electricity system that can generate the electricity as set forth in the application for the sale of electricity.</p>		
<p><b>Conditions before signing the power purchase agreement</b></p>	<p>The power producer must procure collateral for the power purchase agreement in the total amount of THB 500 per 1 KW of the offered electricity in accordance with the terms and conditions stipulated by the Electricity Authority.</p> <p>In order to distribute the electricity to the system, the power producer must obtain all license(s) required under</p>		

	the energy laws and be in compliance with all relevant rules and regulations stipulated by the Electricity Authority.	
<b>SCOD</b>	<p><b>Between the year of 2025 and 2026</b></p> <p>The power producer must distribute the electricity within the SCOD.</p> <p>In the event that the power producer fails to achieve the commercial operation date (the “<b>COD</b>”) and distribute the electricity within sixty (60) days after the SCOD, it will incur a daily fine charged by the Electricity Authority at the rate of 0.33 percent of the collateral of the power purchase agreement, and the period during which the power producer cannot meet the COD following the SCOD shall be deducted from the term of the power purchase agreement.</p> <p>If the power producer cannot meet the COD within twelve (12) months from the SCOD, the power purchase agreement shall be terminated.</p>	
<b>Term of the power purchase agreement</b>	Twenty (20) years from the SCOD or COD, whichever is earlier.	
<b>Restriction</b>	<p>The power producer under a WTE Project must only use the solid waste to produce electricity, except that for commencing the operation of the power plant, oil and natural gas are allowed.</p> <p>Nevertheless, coal must not be used as a fuel source for a WTE Project in any circumstances.</p>	

We hope this information is helpful. For more in-depth details, please contact our Projects and Energy Practice team at Kudun and Partners.

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