

FRANCE

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Solar farms and contractual arrangements in France

Setting up a solar farm in France raises a variety of issues, in terms of applicable tariffs, depreciation, zoning permits, operating licences, insurance; and above all, financing. Once these matters have been dealt with, the contractual arrangement that will govern both the acquisition and the financing of the installations has to be determined.

Considering the type of project, rooftop installations raise more issues than ground-based solar power plants. Indeed, it is necessary to reconcile the property rights of:

- the owner of the real property;
- the owner and operator of the solar farm; and
- the funding partner, who will require collateral.

Regarding the tariff framework, the new terms and conditions of purchase of power are set out in two orders (*arrêtés*) dated 16 March 2010. Projects with a peak power output in excess of 250 kWp are penalised.

The first order dated 16 March 2010, adds to the tariff framework by setting out the new terms and conditions of purchase of power, which depend on whether these installations were commissioned before or after 15 January 2010. Projects commissioned before 15 January 2010, among others, will still be entitled to the

more favourable terms and conditions set out in the order of 10 July 2006.

The second order repeals the order of 10 July 2006, and specifies that rooftop installations with a peak power output in excess of 250 kWp* are not eligible for the bonus for building-integrated photovoltaics. In this respect, it is specified that two photovoltaic installations operated by the same person or by entities under that person's direct or indirect control, within the meaning of article L.233-3 of the French Commercial Code, shall not be regarded as located in two separate sites if they are less than 500 metres apart.

In conclusion, contractual arrangements have to be set up very carefully in particular when setting up an open-ended property fund (*OPCI*).

Law No 2000-108 of 10 February 2000,
Order (*arrêté*) of 10 July 2006, Official Gazette
No 171

Order (*arrêté*) of 16 March 2010, Official
Gazette No 0069 of 23 March 2010, texts
nos11 and 12

Note

* kilowatt-peak (kWp) is a unit used to measure photovoltaic power. A Wp (watt-peak) is the power output of a solar module when illuminated under standard conditions of 1,000 Watts/M² and a temperature of 25°C.