Statement on the Generation Side Basic Wheeling Charge
Imposed on Existing Renewable Energy Generators without Adjustment Measures

November 2019

The Third Interim Subcommittee Report as discussed in the Subcommittee on Mass Introduction of Renewable Energy and Next-Generation Electricity Networks of the Advisory Committee for Natural Resources and Energy, Energy Conservation and Renewable Energy Department / Electricity and Gas Unit sets forth a Generation Side Basic Wheeling Charge (*Hatsuden Gawa Kihon Ryokin*), a charge for the use of the relevant transmission network, to be imposed on all types of electricity generators, including renewable energy generation projects.

The American Chamber of Commerce in Japan (ACCJ), the Australian and New Zealand Chamber of Commerce in Japan (ANZCCJ), the Canadian Chamber of Commerce in Japan (CCCJ), the European Business Council (EBC), and the French Chamber of Commerce and Industry in Japan (CCIFJ) are concerned that adjustment measures at the same level as the Generation Side Basic Wheeling Charge have been excluded in the Third Interim Subcommittee Report for projects with certified FIT rates which are in the Profit Consideration Period (*Rijyun Hairyo Kikan or FIT price of 40, 36, 32 and 29 yen per kWh*).

Without these adjustment measures, the imposed Generation Side Basic Wheeling Charge would functionally generate the same effect as a retroactive and material economic reduction in the FIT rate, contrary to the foundation of the FIT law and FIT policy as per the following reasons:

1) Japan's FIT scheme was intended to incentivize the private-sector to invest in new renewable energy projects in Japan. It did this by guaranteeing both the price and PPA term for such projects. The Generating Side Basic Wheeling Charge is contrary to this principle, as it deprives developers of their secured rate of return under the FIT system. This would occur long after most developers

have made investments to complete their projects in reliance on the FIT rate of return. Profit Consideration Period FIT rates were intended to stimulate private sector renewable energy investment in the initial period of the FIT scheme, as investors at the time had to invest without a strong track record in Japan of private sector renewable energy, and in doing so, took a significant commercial risk. As the Generating Side Basic Wheeling Charge was not included as a cost when calculating the rates of return for the initial period FIT rates, the imposition of this charge now will substantially lower investor rates of return, which the FIT system intends to legally protect.

2) The justification for imposing the Generating Side Basic Wheeling Charge on all categories of generators and as a regular recurring payment over the life of their projects, is that it will be accompanied by a reduction in the initial grid connection costs payable by generators prior to grid connection (the tokutei futan or specific burden) for projects that receive approval from now onwards. However, existing Early Certified Projects will have already paid their connection cost amounts in full prior to commercial operation, and therefore will not benefit from the reduction of the specific burden. Without any adjustment measures to compensate such projects for having already paid their connection costs, imposing the Generating Side Basic Wheeling Charge on the FIT Projects will directly contravene one of the key justifications for introducing this charge.

3) An additional charge on FIT scheme power generation projects is problematic from the viewpoint of investor protection and due process, as it will adversely affect a large number of investors if no adjustment measures are made. Since the introduction of the FIT system, investments into FIT power projects in Japan by domestic and international energy companies, general business companies, financial institutions, life insurance companies, trust banks, pensions, private funds and individuals, have steadily expanded. As infrastructure funds typically invest in power projects that are in operation, the introduction of the Generating Side Basic Wheeling Charge for the FIT projects will cause a decrease in investment yields, and for listed funds a corresponding fall in their share price, creating significant uncertainty as to the security of these renewable energy investments.

4) The imposition of the new Generation Side Basic Wheeling Charge without any adjustment measures to the existing FIT projects, may risk violating the Energy Charter Treaty, such that treaty member country investors would be able to commence arbitration under the Convention for a breach by a host country. If an arbitration tribunal were to determine that the imposition of the Generating Side Basic Wheeling Charge on FIT Projects without adjustment measures is not justifiable, then the Japanese Government would be exposed to a significant number of international arbitration cases and would face claims for large amounts of compensation on the grounds that investor interests have been violated.

5) The new Generation Side Wheeling Charge will be levied on all types of generators (i.e. nuclear,

thermal, hydro and FIT), and is intended to spread the burden of constructing, operating and maintaining the transmission system between electricity end users (through retailers) and generators. However, whilst retailers generally have the ability to pass wheeling charges onto their customers, renewable energy project owners that supply electricity under the FIT scheme, will have no similar ability to pass this cost on to their utility customers, due to the FIT PPA structure consisting of a fixed rate tariff, with no scope for increase.

Imposing the Generating Side Basic Wheeling Charge now on Early Certified Projects without any adjustment measures, will significantly affect investor's confidence in the stability and predictability of the FIT system. It will have a material negative impact on solar project returns and damage trust and confidence in Early Certified Projects including on the part of investors, business operators, financial institutions and other stakeholders. Unforeseen retroactive FIT rate reduction could also potentially negatively impact the developing renewable energy industry in Japan as developers and investors will be dis-incentivized to start or continue projects in Japan.

We strongly recommend METI to consider the impact of the current proposal in consultation with various stakeholders.

In addition, it is acknowledged that The Third Interim Subcommittee Report also proposes changes to the current FIT scheme including transition to Feed in Premium (FIP) scheme within the forthcoming revision of FIT Law by the end of 2020. It appears that the special treatment on exemption from imbalance penalties, which is now available under the FIT scheme, may not be available under the FIP scheme. Whilst we share the view that the FIT scheme should evolve as the technology matures and cost is reduced, with a view to reduce renewables charges to the consumers, we strongly request that METI does not apply any retrospective changes to existing FIT projects arising from these revisions (including to expand the risk of imbalance penalties to existing FIT projects), and any material changes to new projects to be implemented after a sufficient dialogue with the industry and consideration to potential impact on investors' perception towards the Japanese market.