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Italy's market operator GME stated to the EU in February that Italy will fall well short of its target to internally generate 17% of its energy using renewable sources by 2020 and will have to rely on importing around 25% of its renewable demand. Italy generates around 7% of its energy from renewable sources, and despite the recent boom in solar projects and the highest feed-in tariff in Europe during 2009/2010, lags well behind the installed photovoltaic capacity of Spain and Germany. According to GSE, under the new energy law, Conto Energia, Italy has 1042.9MW of photovoltaic solar plants in operation.

The Italian PV sector has experienced very high growth in the past few months, as banks and developers have become accustomed to the Conto Energia introduced in 2007, but the growth has been slower than in the comparable period of attractive feed-in tariffs in Spain and Germany, says Andrea Fontana, country manager of FRV in Italy. The reason for this is the bureaucracy in Italy, with every region having a different type of authorisation period, and because just as market participants understood the regime, the global financial system crashed in 2008.

Now the market has entered a period of uncertainty as the 20-year feed-in tariff moves from a gradual 2% reduction year-on year between 2008, 2009 and 2010, to a much lower tariff in 2011.

The draft decree for the new feed-in tariff is widely known and is expected to be implemented in late May. Under the draft decree, the feed-in tariff for 2011 will step down in four month periods, for a 10MW ground-installed plant connected in 2010 the tariff is 34.6 c per kilowatt hour, this falls to 31.3 c/kWh until the end of April, 28.9 c/kWh until the end of August and 26.4 c/kWh until the end of year. The tariff will then decrease annually by 6% in 2012 and 2013. The tariff will have dropped by 23.3% by the end of 2011 compared with 2010.

Expected 2011 Feed-in Tariff

Peak capacity	Grid connection between 31.12.2010 and 30.04.2011	
	Rooftop	Ground-mounted
[kW]	[kWh]	[kWh]
1≤P≤3	0.402	0.362
3	0.377	0.339
20	0.358	0.321
200	0.355	0.314
P>1.000	0.351	0.313

Peak capacity	Grid connection between 30.04.2011 and 31.08.2011	
	Rooftop	Ground-mounted
[kW]	[kWh]	[kWh]
1≤P≤3	0.391	0.347
3	0.36	0.322
20	0.341	0.303
200	0.335	0.309
P>1.000	0.327	0.289

Peak capacity	Grid connection between 31.08.2011 and 31.12.2011	
	Rooftop	Ground-mounted
[kW]	[kWh]	[kWh]
1≤P≤3	0.38	0.333
3	0.342	0.304
20	0.323	0.285
200	0.314	0.266
P>1.000	0.302	0.264

The draft decree also states that the capacity cap eligible for the feed-in tariff will increase from 1,200MW to 3,000MW. If no decree is forthcoming for regulating the feed in tariff scheme for 2011, according to Art.6, paragraph 3 of the Conto Energia the tariff in 2011 will be 2% less than 2010s.

The 2011 tariff decree had been expected to be implemented by the end of May but this will almost certainly lapse into June or July, after Minister of the Interior, Claudio Scajola, resigned due to allegations of corruption involving the alleged part-payment by a construction company of a flat overlooking the Coliseum. A decree requires a hearing of the chairmen of the regions, and no hearing has yet been scheduled. The Prime Minister does have the power to impose an interim decree, but by whichever route a delay is a certainty.

Who bears the tariff risk?

Opinion is divided about who best can shoulder the tariff risk for projects due for completion towards the end of 2010. EPC contractors or sponsors? Having closed several PV project financings we know that financial institutions are likely not to run any kind of risk, including tariff risk. FRV thanks to the deep knowledge of its PV projects and their related development process is doing its best to give the necessary comfort to the EPC contractors to cover the tariff risk, says Fontana.

The €172.25 million financing supporting the AES Solar Cellino San Marco deal in Puglia relies on the sponsor, with a flexible structure which ensures a minimum debt service ratio from the feed-in tariff component alone. If the plant is not built in 2010, then the documentation dictates that equity (50/50, AES/Riverstone) will be injected to make sure the feed-in tariff meets the debt service. The ADSCR is around 1.35x.

If, in the worst case scenario, the plant is delayed and there is no feed in tariff, the banks will be entirely repaid by the sponsors. Given the uncertainty of the Italian PV tariff this type of structure is likely to be employed again but will be highly dependant on the creditworthiness of the sponsors. If the project is completed as scheduled the project benefits from the 2010 20-year fixed tariff of 34.6 c/kWh plus the merchant pool price, which is currently around 7-10 c/kWh. The PV supplier, First Solar, and EPC contractor Schneider Electric, are contracted to commission and connect the plant by late September. First Solar is offering an availability guarantee for the first ten years which tapers to zero.

Some EPC contractors are rapidly ramping up the price of a guarantee that will cover connection and tariff risk while some are rejecting such guarantees altogether. Under Italian law the EPC guarantee must have a cap to be valid and there are only a select few EPC contractors that can shoulder such risk.

May or probably the end of June is likely to be the cut off date when developers can begin construction and still be ready to connect in 2010, and there is likely to be a rush of financings before Year End. However, according to one lawyer, many projects are being constructed pending final authorisation on balance sheet with the sponsors assuming permit-risk with an eye on a refinancing once the project is fully constructed and permits are obtained.

While the cost of guarantees has increased the cost of PV panels has fallen. During 2007, 2008 and 2009 we thought that we would see a bottleneck in the provision of PV panels, when we were developing a 30MW plant in Spain we faced a bottleneck but we have not seen that at all in Italy, says Fontana. While there continues to be an oversupply in the market the cost of panels is coming down, but that has been offset by an increase in the cost of EPC guarantees. It is clear that guarantees are naturally more expensive towards the end of a regulated market.

Sponsors of projects that are racing toward connection by the end of 2010 have been comforted by the recent introduction of the so-called Alcoa law which was enacted on 15 March. The law protects developers from the instance when Terna or the local grid operator has not physically connected the plant to the grid by 2011. As long as the plant is ready for connection and the project has applied to Terna in good time, the sponsors will not be affected by the backlog and will be eligible for the 2010 tariff even if connected in 2011.

2011 deals

The market welcomes the incremental step down through 2011 an approach seemingly used to avoid the Spanish cliff face experience. According to one active project financier the current benchmark for debt-equity for 2009/2010 deals is 85/15, and the benchmark ADSCR is around 1.3x. A 20% drop in tariff all things being equal would require a drop in leverage to around 65/35. However, one large developer believes that the drop in tariff could be more than compensated by a reduction in capex costs (driven predominantly by a reduction in the PV panel input price) which will allow leverage to be maintained for project financings through 2011.

A reduction in the tariff does not spell the end of the market as PV panel costs have reduced, adds Fontana. FRV closed PV plants for over 15MW in Spain since December 2009, after the tariff dropped. Spain and Germany had a higher tariff for longer without a credit crunch. Spain reached 2GW capacity before it dropped its tariff. My recommendation would be for the government to issue a tariff that boosts the Italian PV industry and contractors, because there are few Italian PV contractors, unlike the Spanish and German contractors which dominate the market.

If the 2011 tariff is not published soon, the market will be held up. The later a project is due for connection in 2010, the more difficult the project is to finance. Projects earmarked for connection in 2011 are very difficult and will probably require on-balance sheet or bridge financing. The trouble is apportionment of risk, he says. If you have a powerful sponsor you can structure a deal whereby the sponsor will inject equity if it misses its connection date, but an EPC contractor will find it hard to carry his risk. What happens, for instance, if the 2011 tariff is zero? Also force majeure, acts of god or unforeseen land issues which cause a delay are risks that

ultimately can be only taken by equity. While a utility-grade sponsor may be willing to stump up guarantees or fund on balance sheet, private-equity funds have a higher cost of equity and may be unwilling or unable to tie up capital with a guarantee or finance on balance sheet.

DIA permitting unlawful then lawful (maybe)

Aside from the tariff uncertainty the Italian solar market has also been rocked by the Constitution Court rulings that indicate that most regional fast track permitting regimes, most avidly followed by the Puglia region, are incompatible with federal law and therefore unlawful.

However, the Italian Chamber of Deputies proposed on 23 April to introduce into law a simplified authorisation procedure for renewable projects with a capacity of up to 1MW (dichiarazione di inizio attività or DIA). The proposal was incorporated within Italys so-called Community Law 2009, which delegates to government laws to enact to comply with EU law.

The change in the federal law comes after Italys Constitutional Court struck down as illegitimate the regional fast track laws of Puglia (decision no. 119/10) and Calabria (124/10). Under Puglias DIA law projects of up to 1MW could be advanced under the fast track authorisation scheme, in Calabria the limit was 500Kw. Both directly contravened federal law (no. 387/2003) which stipulates that a lengthier authorisation procedure involving a thorough independent environmental assessment is required for PV solar projects above 20Kw and for wind projects above 60Kw.

The Constitutional Court rulings have caused great uncertainty in the market, particularly in Puglia where a flood of DIA applications have been made and granted. Anecdotaly a number of small bank-backed DIA projects are thought to be draw stopped, with those lenders continuing to mark to market swaps, covering that debt.

Probably the largest project impacted by the Courts decision is Global Solar Funds 42MW scheme that was split in two. A financing comprising Eu140.8 million debt and Eu32.2 million equity closed 15 March for 27.5MW. The debt was split between a Eu128 million 18-year term loan and a Eu12.8 million 5-year VAT facility. The financing was arranged by CDP, Unicredit, Intesa, Santander, BancaNova and MPS. There were eight SPVs created for this portfolio, each a borrower for this transaction.

The Courts ruling does not retroactively strike down projects that have acquired permits prior to the decision as developers have relied on local law to their detriment (situazioni consolidate). However, if a third party wishes to challenge the legality of the permits, the sponsor is unlikely to have any legal defence. Also the public administration can exercise its review powers (autotutela) and revoke the DIA.

It is legal grey area whether a project with permits, a partially constructed project or a fully constructed project is immune to a legal challenge, although the greater the investment the stronger the defence to any challenge. As Carsten Steinhauer, partner at McDermott Will & Emery, says: In each case, a balance must be struck between the interests of each of the parties involved. The legitimate reliance of the developer on the validity of the regional laws as they were in force during the authorisation process will have an important impact, as well as the investments already made in the project.

This legal risk in the GSF projects is partially covered by a guarantee for some of the plants by EPC contractor Dalkia, and partially by a sponsor guarantee from GSF. In total the GSF portfolio covers 39 separate plants, each with a separate DIA authorisation. Only three of the plants had permits granted under Puglias second DIA law Regional Law 31/2008. It was this law that was ruled illegitimate. Most of GSFs permits were issued under Puglias first DIA law: Article 27 of Regional Law 1/2008. Although the Constitutional Court is certain to rule the same way, a first hearing has yet to be made by the court and a ruling is not expected for at least six months. The EPC contractor, Dalkia, is contracted to have all the PV plants installed and connected within five months, thereby nullifying the Courts ruling. Apparently, liquidated damages under the EPC contract provide complete restitution for a delay and the subsequent removal of permits for plants that are not yet constructed. Suntech, which is majority owner of GSF, is the PV panel provider.

The proposed federal DIA amendment must now be approved by the Italian Senate before it can become law. But even assuming the proposal is approved it does not yet mean that renewable energy projects of up to 1MW are automatically subject to the simplified DIA procedure. It is simply a mandate to the government to introduce such a rule. The deadline for the government to enact a decree is 5 December 2010.

At the beginning of May SunEdison reached financial close for its 10MW SunPuglia solar PV portfolio which has DIA permits. NordLB provided Eu47 million (\$62 million) of 18-year debt for the project. Pricing is thought to start at around 270bp over Euribor. This is

SunEdisons first Italian deal, and the company plans to develop 72MW of solar in Italy this year. NordLB together with its legal adviser Norton Rose has come to the view that third parties only have a 120 day window in which to appeal the permits from the start of construction, so the debt will only be disbursed after this time has elapsed.

Jumbos ahead

For the remainder of 2010, there are a number of transactions likely to finance. SunPower subsidiary, Sunray, is close to financial close for bank debt from Barclays for its 9MW Centauro plant, and is currently working on securing public ratings for its forthcoming bond backing its 52MW Andromeda plant. SG and BNP Paribas are bookrunners. The EIB and SACE are expected to have a sizeable role and are acting as controlling creditors to overcome the agency issues for obtaining waivers that blight project bonds for greenfield deals.

Tozzi group has appointed Unicredit as adviser and lead arranger for a 35MW plant with a capex of Eu105 million in Northern Italy. The deal is likely to be banked with 80% leverage and will be quickly followed by another 35MW plant, with both aiming for grid connection by the end of the year.

GSF may attempt to approach the project bank market again for its remaining 12MW in Puglia, however most commercial banks have considerably cooled their interest in anything DIA related given the legal risk. It is rumoured GSF will approach the Chinese Development Bank given its Chinese connections via Suntech, or complete the project on a corporate basis and the look for a project refinancing post completion.

EDF Energies Nouvelles has a Eu1 billion framework funding agreement with the EIB for PV plants across France and Italy, with the EIB contributing 50% of the debt for each project, and banks are sought for the framework financing for the Italian portion. Also across Italy and France, Aveleos, a JV between Enovos Luxembourg and Swiss renewable energy company Avelar Energy, plan to develop 95MW of PV plants.

Fotowatio Renewable Ventures (FRV) and BP Solar have signed an EPC framework agreement to construct solar projects totalling 37.1MW in Italy. BP Solar will construct the facilities and FRV will finance, own and operate the plants, which are expected to be completed by the end of this year. FRV will invest \$125 million (\$167 million) in these new projects. Similarly Norwegian firm Statkraft has announced an EPC framework agreement with Siemens Energy to build up to 40MW new solar power capacity in Italy during 2010.

Besides the framework agreements, Italy also has three contenders for Europes biggest PV plant. Both AES Solar, which is developing a 110MW plant in Puglia, and Samsung, which is developing a 123MW plant in Sicily, have yet to receive full authorisation but are likely to begin construction on a portion of the plants, at their own risk, to be eligible for the 2010 tariff. Only when 120 days have passed after full authorisation is a project immune to the assertion of third party rights and appeals against the permit, but as oddity of Italian law construction is not prohibited pending the granting of permits. Finance for both plants is likely to be in the market in the second half of 2010.

Further advanced, SunEdison has received final approval for a 72MW plant near Rovigo, North-East Italy. The plant if complete before the others, will be Europes largest. Santander is adviser and other equity investors are sought. Isolux Corsán is the EPC contractor.

Project name	Sponsor	Financial close date	Project Euro amount	Debt/equity ratio	Annual DSCR	EPC contractor
AES Solar Cellino San Marco	The AES Corp	26-Mar-10	199.853	86/14	1.35	Schneider Electric
GSF Solar Puglia PV Portfolio	Riverstone Holdings					
Veronagest Sicily PV Portfolio	Global Solar Fund, SCA, Sicar (GSF)	15-Mar-10	173.000	82/18		Dalkia SA
	Veronagest SA	01-Mar-10	84.700	86/14		SunPower Corp
Fotowatio Fiumicino	Solesa Tecnologie sal Sole	17-Feb-10	44.000	86/14		Siliken SA
	Fotowatio Italia Srl					
Soluxia Sarda II Solar PV Portfolio	Sorgenia SpA	12-Feb-10	84.000	83/17		Sorgenia Solar Srl
SunPuglia PV Portfolio	SunEdison LLC	11-Feb-10	47.000			SunEdison LLC
Puglia Solar PV Portfolio	Resolar Srl	18-Dec-09	31.500			Iberdrola Ingenieria y Construcccion - IBERINCO
Ragusa Solar Park	Voigt & Collegen GmbH	02-Dec-09	31.170	64/36		
Sunway Uno e Sunway Due PV Portfolio Acquisition	Enfinity Management BVBA	24-Nov-09	29.400		1.250	Eleca SpA
Centrobanca Helio Multiutility Solar Project	Helio Capital SpA	11-Nov-09	14.500			Nuova Thermosolar Srl
Etrion Solar PV Project	Multi Greenpower SpA	04-Nov-09	23.784	85/15		SunPower Corp
San Pietro Vernotico Solar Plant Refinancing	Solar Resources Holding Sarl	29-Oct-09	11.000			TemiEnergia SpA
Roof Top Solar Plant Project Refinancing	EDF Energia Italia SpA - EEI					Beck Energy GmbH
Taranto Solar Park	Alerion Energie Rinnovabili Srl	22-Sep-09	11.950			Ecostream Italy Srl
Monalto di Castro PV Plant	United Green FZCO	18-Sep-09	40.500			
Solar Apulia I	Sunray Renewable Energy	17-Sep-09	142.000	84.5/15.5	1.300	SunPower Corp
Centrobanca ErgyCapital Solar PPP Project	Geosol Beteiligungsgesellschaft mbh	31-Jul-09	18.540			
	ErgyCapital	30-Jun-09	28.000			Energetica Solare SpA
Foresight Italian Solar 1 PV Farm	Foresight Group	29-Jun-09	35.050	80/20		Ecoware SpA

Brindisi Solarpark Portfolio	United Green FZCO	05-Jun-09	29.200			Gehrlicher Solar AG
Fototore Solar PV Portfolio	Fotowatio	29-May-09	26.462	84/16	1.250	Siliken SA
Foresight Group Puglia Solar Power Projects	Foresight Group	01-Apr-09	24.983			Energos SpA
K2 Photovoltaic Plants	Kenergy SpA	01-Mar-09	11.500			Energos SpA
Alerion Energie 2MW Puglia PV Portfolio	Alerion Energie Rinnovabili Srl	12-Feb-09	10.500	76.5/24.5		Energos SpA

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