

New Energy New Savings and New Development

The Improvement of Legislative System on China's New Energy

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Abstract: With the rapid development of social economy, the energy situation at home and abroad become more serious than before, and the urgency and necessity of the energy legislation has been highlighted. This thesis, through analyzing the status and deficiencies of our new energy legislation, and contrasting with the experience of foreign countries, puts forward some suggestions to the improvement of new energy legislation.

Keywords: New energy; Deficiency in legislation; the improvement of legislation system

Entering into the 21st century, many countries are facing the increasingly serious energy problems and follow-up national security issues, so they start to make legislations and solve the energy crisis in policy and technique. The basis of putting forward and deal with the energy problem is to "increase income and reduce expenditure", and one of the important ways to "increase income" is to improve the proportion of new energy in national energy system. Therefore, making efforts to build a sound new energy legislation system is an important part of energy legislation.

1. The Situation of China's New Energy and the Need for Legislation

First of all, the energy problem in our countries is more serious and complicated than in other countries. Large population, rapid economic development and extensive model of economic development are the factors that make per capita resource in our countries remain in the lower level in the world. So, to a certain extent, the energy problem has become the bottleneck which restricts the sustainable development of our society. Moreover, though China's hydro, wind, solar power and other new energy resource reserves are abundant, the high requirement of new energy technologies, the long payback period, the large investment of development and utilization and the high cost all contribute to the grim situation and low utilization of our new energy. Therefore, to enlarge the development and utilization become the priority for us to solve energy problems.

However, because of the lack of adequate guidance to the utilization of new energy, the current legal provisions on the new energy just scattered in "Energy Conservation Law" and "Renewable Energy Law", and it lack of independent and integrated system. Therefore, the formation of a sound system on new energy legislation has unusual significance.

2. The Initial Formation of New Energy Legislation System

From the above analysis, we can see clearly that there is a strong demand for new energy legislation in our country, but it does not represent that our country in this term is completely blank. Some of the provisions in "Energy Conservation Law" and "Renewable Energy Law" have formed the preliminary legislative system.

"Energy Conservation Law" Article VII specifies that "the state encourages the development and utilization of new energy and renewable energy", which shows the clear attitude that the State takes to new energy, and it is the overall guiding principle. In addition, "Energy Conservation Law" also indicates the specific strategies to use new energy sources. For example, Article 40 : "the states encourages the utilization of energy-saving building materials and equipments such as new wall materials, and installation and utilization of solar and other renewable energy use system. Article 59.3: "The state encourages the development of biogas in rural areas, promotes biomass, solar and wind and other renewable energy technologies, develop small hydro power, promote energy-saving housing and stoves in rural homes according to the principles of scientific planning and order exploitation, encourage the use of non-cultivated land to cultivate energy plants, strive to develop firewood and other energy forest. So it has the guiding rules as well as the operability.

"Renewable Energy Law" is a targeted legislation which focuses on new energy. The general part of the Act regulates the legislative purpose, the scope of renewable energy, the adjustment range, renewable energy market and renewable energy management system. Then the research and development of new energy is planned, so as to ensure the rational structure of energy for sustainable development. Chapter III provides legal basis for the state and government so that they can give technical and policy support on the development and utilization of new energy sources. It points out that the appropriate

guide list and national standards should be made, and R & D should be intensified. The provisions of Chapter IV are specific, detailed requirements which prescribe the specific strategies that the states promote and take in various fields on new energy. Chapter V, combines with China's national conditions, provides the price management and cost burden caused in the process of using new energy in order to make this law fit the actual needs better. The remaining two chapters prescribe the incentives and legal responsibility, so that the law will be administered smoothly, thus a complete system will be formed.

A lot of bright spots showed throughout the law, such as the provision of the total target, compulsory access to internet, generate electricity by the way of merging grid systems, and the setting up of a classification system and the electricity cost-sharing system. These provisions not only reflect the creativity of legislation, but also fit China's actual situation.

3. The Deficiencies of Our Legislation on New Energy (Simple Comparison with the Foreign Situation)

We cannot ignore that there are many shortcomings in the law as well as in the practices, because the new energy legislation in China started rather late. Therefore, it is necessary to refer to the useful experience of the countries in the forefront of the world in this regard.

In Germany, renewable energy law is regarded as the most advanced legislation in this field. This law is applicable to the generation of electricity by hydro, wind, solar radiation, geothermal energy, landfill, the gas produces in waste water treatment plants and mines and biomass. By setting up the obligations of purchasing electricity to grid operators, the development of generating electricity by renewable energy is promoted, the detailed law prescription is given, but the flexibility of adjustment is also reflected. The biggest revelation that German has given to us is that we must focus on the implementation of effective legislation and improvement of operability. We need to clear the division of each rights and obligations in the future legislation, make detailed indicators and improve the strength of incentives.

The British Government has introduced a series of supporting policies to promote the development of new energy. By constructing a "non-fossil fuel Convention", the government orders the renewable energy power in the way of competition bidding. The quota system is carried out in the development of renewable energy, and a sound market mechanism is established. What's more, by the tax adjustment, a strict system of accountability is set up too.

In Denmark, new energy development has a long history especially the development of wind energy stays ahead in the world. The biomass and solar energy are more fully used. All of these have a close relationship with the support of government. At the same time, the

provision of financial subsidies and tax incentives are provided to the development and utilization of new energy, and green certification system is promoted. So the sound market mechanism plays a pivotal role in the development of new energy sources.

By drawing useful experience from these countries, and further combining with China's specific national conditions, we should do our utmost to improve the legislative system on new energy, and adopt various policies to increase the utilization of new energy.

4. The Improvement of China's New Energy Legislation System

By integrating the above analysis and reviewing our existing new energy legislation, we should work on establishing a sound system from the following aspects.

4.1. Focus on Building a Good Interface System

The new energy legislation will inevitably involve finance, tax, banking and other aspects. If all regulations can keep on their own ways, if a sound convergence and supporting system can be set up, the good implementation result can be received, and the legal regulation will be fully played.

4.2. Reasonably Arrange the Proportion of Principled and Specific Provision in the Law

Improve the operability of the law, and avoid the provisions that are empty and lack of applicability. Meanwhile, avoid introducing too specific norms, because it could affect the stability of the law. Then, handle the relationship between abstract and concrete.

4.3. Generally, We Should Break the Isolation State between the Department Laws

With the combination with the actual situation of China's new energy, we should bring in different department laws to adjust the appropriate legal relationship. Give full play to the different roles that public and private law played, and integrate various factors to form a completed system, so that the law will fit our actual needs better.

4.4. To be More Specific

A series of new regulation should be introduced in the process of legislation, such as the increase of the supporting of research and development of new energy. According to the composition of our national institutions, we should establish a comprehensive energy management system, and give preferential policies on financing and taxation. We can also draw some lessons from the mandatory quota system in foreign countries, and make market adjustment in price in order to make full play of the market in resource allocation. Through this "invisible hand", we can guide and promote the development and

utilization of new energy.

References

- [1] Liu Xiaobing, Zhang Zhiyu, China's new energy and the review and improvement of renewable energy legislation, Nanjing University of Technology, 2007(03):16-20.
- [2] Yang Jiejun, China's new energy and new thinking of renewable energy legislation, Law and Business Research, 2008(01):92-97.
- [3] On the development of energy law - Comment on "Energy Law of the People's Republic of China"(Draft) Jurist, 2008(02):92-100.
- [4] Ke Jian, Discussion on the safety value of energy law, National Seminar on Environmental and Resources Law in 2006(yearly) (2006.8.10~12·Beijing) Proceedings; 443-447.
- [5] Chen Haijun, Renewable Energy Law in German and Its Significance, Environmental Science and Management, 2006(01):32-34.
- [6] Office of the State Electricity Regulatory Commission laws and policies on renewable energy in Britain, Rural Electrification, 2008(02):51.
- [7] Office of the State Electricity Regulatory Commission laws and policies on renewable energy in Denmark 2008(03):50-51.