

BKLC POWER SERIES

SETTING UP A SOLAR POWER PLANT IN AFRICA: KEY CONSIDERATIONS

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Africa is endowed with a large capacity for solar energy. Seven of the ten countries with the highest supply of sunshine in the world are located on the African continent. The continent is also home to about 770 million people who lack access to power. Does Africa present an investment opportunity for power businesses? Yes, it does. The quantum of sunshine the continent receives makes it fecund for solar power investment and not just on a small scale. Africa needs huge solar farms the likes of Bhadlar Solar Park, India (2.25GW), Pavagada Solar Plant, India (2 GW) and BenBan Solar Park, Egypt (1.65GW). The continent also needs small scale solar plants and distributed rooftop solar panels. In this article, we discuss key factors to be considered by a potential investor or project developer intent on going into the solar power business in Africa.

1. BUSINESS CONSIDERATIONS

Business Plan: Like every other business, entering into a solar power business requires a business plan. A business plan is a document that outlines the 'what,' 'why,' 'how' and 'when' concerning the business. The business plan explains what the business is, describes the reason for setting up the business, what differentiates the business from the competition, and how the business will be operated.

Financial Plan: Essential to the business plan is a financial plan. The financial plan helps determine if the business is sustainable and profitable. Where it is profitable, it gives the initial investor confidence. Where it is adverse, investors will be reluctant to invest in the business idea. There are three major parts – cash flow statement or projection, income statement and balance sheet. In essence, the financial plan or statement keeps the business founder on track to financial health as the business matures.

2. REGULATORY CONSIDERATIONS

Business Registration: Governments require that business entities must be licenced before the commencement of operations. Different countries in Africa have different timelines for business registration. It takes between 7 and 21 days to have a business registered in Ghana. In Rwanda, it takes 1 – 2 days from the date of submission of business registration documents to have a business registered. In Mali, it takes about a month. In addition to the registration timeline, the cost of registration is also important. The cost of registration varies between countries and may be influenced by whether the services of a lawyer are employed or if done by the individual. Whatever the case may be, the cost of registration forms part of the financial plan.

Tax Registration. In many African countries, tax registration is done alongside company registration. In Nigeria, a Tax Identification Number is given alongside the incorporation certificate. In Uganda, it takes between 3 and 30 days to obtain a Tax Identification Number. Tax registration is key for every business.

3. COMMERCIAL CONSIDERATIONS

Market Size: Africa is made up of over 1.4 billion people with slightly over 40% of this population having access to energy. Energy is essential for development and the people and governments understand the impact of energy access on economic growth. For instance, Nigeria is the largest user and importer of backup diesel and gasoline generators on the continent with Nigerians spending an annually estimated USD12 billion on buying and operating small generators. Over 22 million homes and small businesses rely on small generators for back-power. With the national grid frequently collapsing, Nigerians resort to alternative power sources. The market for solar on the continent is huge.

Price: Solar power needs to be competitively priced. The business owner needs to take into consideration the cost of initial business investment and the price of the services and find a balance. The service must not be

over-priced such that Africans cannot afford it and must not also be under-priced such that the business cannot break even.

Affordability: Pricing needs to consider the population's capacity to pay for the service. Many African countries are low-income countries with a considerable portion of the population living below the poverty line. An investor will therefore need to adapt his business modelling to the current economic realities on the continent in mapping out the timeline for profit plough-back. Prices have to be affordable for a business to break into the power market.

4. LEGAL CONSIDERATIONS

Business Structure: The structure of the business is an important consideration when going into the business of solar power. Whether the business should be a limited liability company, a sole proprietorship, a public liability company or a partnership depends on the business owner and the way he wants to manage his liabilities and risk exposures. Each form of business structure provides a different tax structure and it is important to understand which is most beneficial as the structure of the business will determine the business's liability issues. In many cases, solar businesses are registered as

limited liability companies with the liabilities of the promoter or developer separate from that of the company.

Licences: Entering into solar power business requires obtaining licences from the government. Depending on the scale of the business, licences vary. A developer of a huge solar farm may have to obtain a power generation licence and a business involved in the trading of solar panels may have to obtain a trading licence. Dealing in the manufacture of solar components may require obtaining a manufacturing licence. Whatever the case, licences are an important part of the legal considerations in setting up a solar business.

Intellectual Property: Business ideas need to be protected. Intellectual property (IP) represents ideas and creations that can be legally owned. Intellectual property is a core asset of any business – it can include things like the business name, the brand name, domain and products created during the business or the innovative ways used to produce them. In many cases, the solar company would need to develop and protect its in-house know-how around design optimisation – what factors to consider when selecting a site, the topography of the solar array, storage and design, as well as project development and asset management – that it will leverage to differentiate itself from the competition.

Land Rights: Establishing a solar power plant requires an understanding of the land rights of the locale where the plant is to be established. Different laws govern land rights across the continent and these laws must be taken into consideration before setting up the plant.

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This article is published by Brooks and Knights Legal Consultants (BKLC) as part of its Power Business Series. BKLC consultants have an aggregate of over 10 years of experience in power sector transactions and are vast in all aspects of power transactions, particularly the solar business. At BKLC, we love to get the deal done. For more information, contact us at: info@brooksandknights.com