



Technical Assistance Consultant's Report

Project Number: 43357
October 2011

Mongolia: Ulaanbaatar Low Carbon Energy Supply Project Using a Public-Private Partnership Model (Financed by the Japan Special Fund)

Feasibility Report

Appendix 7: Policy Note and Investment Guidance Document

Prepared by: HJI Group Corporation in Association with MonEnergy Consult Co. Ltd.

For: Ministry of Mineral Resources and Energy, Mongolia

This report does not necessarily reflect the views of ADB or the Government concerned, and ADB and the Government cannot be held liable for its contents. (For project preparatory technical assistance: All the views expressed herein may not be incorporated into the proposed project's design.

Asian Development Bank

APPENDIX 7: POLICY NOTE AND INVESTMENT GUIDANCE DOCUMENT

1. Introduction

1.1 Purpose, Scope and Target Audience

1. This document provides a brief introduction to the Mongolian energy sector, describes current government energy strategy and policies and the opportunities for private sector investors to become more closely involved in the sector. Ulaanbaatar (UB), the capital city, is by far the largest urban conurbation in Mongolia and is where the energy needs are greatest. The purpose of the document is to provide a brief insight of Mongolia as a country, how it is governed and as a place to invest in. It focuses on the energy sector with particular emphasis on the power and central heating sub-sectors of the energy market, as these are interlinked. The target audience is potential investors in the Mongolian energy sector.

1.2 Structure of the paper

2. In section 2, this paper first provides a short overview of Mongolia, the city of UB, and the country's system of Government. In section 3, an overview of the energy sector is provided, as well as information on the government's energy strategy, the energy law, the current energy market and how it is regulated, energy tariffs and forecasts of future energy demand. Indications of future investment opportunities are also provided. Section 4 of the paper provides information on the general environment for foreign companies investing in Mongolia including government policy the legal framework and economic prospects. Finally, the Annex to the paper provides a schedule of relevant material for potential investors who wish to undertake more detailed investigations

2. An overview of Mongolia

2.1 Mongolia – The Country

3. Mongolia is a large, sparsely populated and land-locked country, located in the central part of Asia between 41°35" – 52°06" of altitude and 87°47" – 110°57" of longitude. The climate of Mongolia is continental and has four distinct seasons. Mongolia has an extremely harsh winter climate with winter temperatures ranging from -10°C to -30°C in the daytime during mid-winter (late December and January). Further, temperatures can drop to as low as -40°C at night in January. The long and harsh winter weather subsequently creates an unusually long eight-month heating season. Reliable heating service is not merely a utility for citizens; it is a matter of life and death. A safe, clean, and reliable heating supply is a critical need for the entire population of Mongolia.

4. The population of Mongolia reached 2.7 million in 2009, with a 5% increase compared to that of 2006. Mongolia has staged an impressive recovery from the steep recession of late 2008 and early 2009. Moreover, the economic recovery is becoming broad-based. Strong demand for copper and coal from China are fuelling the recovery. Fiscal balances have improved significantly in step with mineral-related revenues. The gross domestic product (GDP) of Mongolia increased from 3.0 trillion MNT in 2006 to 3.6 trillion MNT in 2009, with a 5.7% annual average increase rate from 2006 to 2009¹. The real GDP growth for 2010 was estimated to be 8.5% year-on-year.²

¹ Source: Mongolia Yearbook 2009.

² Mongolia Quarterly Economic Update, October 2010, World Bank.

2.2 The Capital City - Ulaanbaatar

5. UB, where almost half of the country's population now resides, has the unenviable distinction of being the coldest capital city in the world and the city's residents depend on a properly functioning heating system to both survive and make a living. The size of the city is expanding as increasing numbers amongst the population give up their traditional nomadic rural lifestyle and move to the city to improve their living standards. As a consequence, the City has expanded geographically to subsume all or part of some surrounding rural settlements and a feature of the city is that in the more outlying areas a significant proportion of the city residents still live in traditional tented accommodation (gers), and these areas are known as "the ger areas". The City is governed by an elected city government headed by the city governor and is directly accountable to the Government of Mongolia (see below).

2.3 The System of Government

6. Mongolia has a written constitution dating from 1992 that designates the Parliament (State Grand Khural) as the supreme decision making body, provides for the holding of elections of the parliament and the president, provides for an independent judiciary and a separate independent constitutional court, and defines the structure of local government and the appointment of local governors.

7. The constitution allows for multi-party political participation in the national parliament with the majority party normally forming the government. Thus the Government is accountable to the Parliament. The Constitution requires that elections to the national parliament are held every four years and the next such elections are scheduled to be held in June 2012. However, at the present time, no single political party commands a majority, and therefore a coalition government has been formed.

8. The Country has three tiers of elected local government which comprises (i) provinces (aimags), (ii) counties (soums) in rural areas, or districts in urban areas; and (iii) village settlements in rural areas (bags) and urban communities (khoroos). In each case there is an appointed governor and an elected council of people's representatives (a khural).

9. The Government of Mongolia is headed by the Prime Minister who presides over a Cabinet that comprises the Ministers, each responsible for an individual ministry. The key ministries and other government agencies most relevant to the Energy sector are as follows:

10. **The Ministry of Mineral Resources and Energy (MMRE).** MMRE is designated as the lead Ministry for promoting the CHP5 project and is the designated project executing agency for this TA study. Some of the responsibilities of MMRE include energy policy, energy strategy, power generation, power transmission, district heating, etc. The Energy Authority (EA), a government agency under MMRE, is responsible for overseeing the operation of energy sector in accordance with the government's energy policy. The EA is the project implementing agency for the TA project.

11. **The Ministry of Finance (MOF).** MOF is responsible for the preparation and administration of the State Budget. MOF is also the counterpart agency for ADB and other multi-lateral and bi-lateral aid agencies and thus coordinates foreign aid. All foreign borrowing by Government or government agencies/SOEs needs clearance from MOF who will provide required sovereign guarantees.

12. **The State Property Committee (SPC).** SPC is a Ministry level coordinating government committee, directly answerable to the Prime Minister, and is responsible for the oversight of all State owned property (Land and other assets). The Law on Concessions assigns certain administrative responsibilities to SPC in the planning, procurement and approval of Concessions contracts as defined under the Law, which would include any form of PPP. In order to discharge this responsibility, a newly created PPP unit under SPC has been formed but is not yet fully functioning. SPC also has a separate unit which is responsible for administering the Government's privatization program.

13. **The Ministry of Nature, Environment and Tourism (MNET).** MNET is responsible for environmental protection in accordance with the Law on the Environment, and is the main administrative authority for the Law on Environmental Impact Assessments. All infrastructure projects require an environmental impact assessment, and as such, MNET is a key stakeholder. MNET also supervises the Water Authority of Mongolia whose responsibilities include water resource planning and the licensing of water abstractions.

14. **The Energy Regulatory Authority of Mongolia (ERA).** ERA is an independent regulatory authority that was established by the 2001 Energy Law. The ERA regulates energy tariffs, grants licenses to power companies involved in the generation, transmission and distribution of electrical power, monitors compliance with license conditions, and resolves disputes between agencies and customers. The ERA is directly accountable to the Government (as represented by the Cabinet).

15. **The National Development and Innovation Committee (NDIC).** NDIC, like SPC, is a Ministry level government committee, directly answerable to the Prime Minister. It is responsible for economic and development planning, oversees foreign investment into the country and is a sponsor of innovation and reform initiatives on behalf of the Government. NDIC are expected to review and comment on all proposed PPP and privatization initiatives before these are endorsed by the Government, and to play an active role in the PPP process.

16. **The Ministry of Roads, Transportation, Construction and Urban Development (MRTCUD).** MRTCUD is responsible for transportation (including road, railway and aviation), construction and urban development sector in Mongolia. It will play a key role during the implementation of the CHP5 project and will also review and approve the designs before construction can start.

3. The Mongolian Energy Sector

3.1 Overview

(a) Power Generation

17. Electricity is supplied through three centralized power grids and two isolated systems. The three centralized power grids are (i) Central Energy System (CES); (ii) Eastern Energy System (EES); and (iii) Western Energy System (WES). The two isolated systems are Dalanzhadgad CHP plant and local grid, and the grid for Zhavhan and Gobi-Altai aimags. The power plants in Mongolia include seven coal-fired power plants, two hydro power plants, some small diesel generators, and small renewable energy generators.

18. Coal-fired power plants provide the majority of power generation for Mongolia. There are seven main coal-fired power plants in Mongolia with a total installed capacity of 856.3 MW, as shown in **Table 1**. The CES, the largest energy supply system in Mongolia, consists of five CHP plants, one transmission network, and four distribution networks, and supplies power to the cities of UB, Darkhan, and Erdenet, and the centers of 13 provinces. There are three CHP plants (CHP2, CHP3, and CHP4) in UB. The total installed capacity is 814 MW in the CES. Due to the aged, deteriorated, and unreliable equipment, it is impossible to fully utilize the installed capacity of the CHP2 and CHP3 to meet the potential power demand. Actually, the available power capacity is only 615 MW in the CES. In 2009, the peak power load in the CES reached 695 MW.

Table 1: Summary of Coal-Fired Power Plants in Mongolia

No.	Coal-fired Power Plants	Capacity (MW)	Available (MW)	Share in CES (%)	Location	Year Installed	Efficiency (in 2009)
1	CHP2	21.5	18	2.7%	UB	1961	21.0
2	CHP3	136	105	17.5%	UB	1968	38.6
3	CHP4	580	452	70.2%	UB	1983	40.1
4	Erdenet Plant	28.8	21	3.6%	Erdenet city	1987	40.8
5	Darkhan Plant	48	39	6%	Darkhan city	1965	28.5
	CES Subtotal	814.3	615	100%	--		
6	Dornod Plant	36	--	--	Dornod aimag	1969	19.4
7	Umnugobi Plant	6	--	--	Umnugobi aimag	2001	--
	Total	856.3					

Source: Energy Statistics of Mongolia (2009).

(b) Urban Heating in UB

19. The present available heating capacity of the three CHP plants in UB is 1,585 GWth, while the actual heating demand in 2009 was 1,555 GWth. In other words, there is essentially no backup heating capacity in UB. This is a very undesirable situation for the coldest capital in the world. The consequences are unimaginable should one of the aging CHP plants in UB become unavailable during the middle of winter.

20. In addition to the CHPs, many small coal-fired heat-only boilers (HOBs) and domestic stoves are widely used in UB for space heating and domestic hot water production. According to a survey study³, 89 HOB houses and 1,005 coal-fired water heaters were being used for public buildings and apartments in the ger areas of UB. HOBs typically have a capacity ranging from 250 kW to 1,000 kW and were designed to provide hot water and heating service to one or several buildings such as schools and kindergartens as their central heat location. In addition, domestic stoves are widely used in ger households. According to a World Bank survey, there were approximately 104,000 heating stoves in UB in 2008.⁴

21. Along with population growth and economic development, demand for both heating and power have also continually increased in Mongolia, especially in UB.

3.2 Energy strategy

22. The National Energy Strategy prepared in 2002 by the Government with the assistance of foreign donors⁵ identified the following goals, strategic principles and key actions for the development and modernization of the Mongolian energy sector.

Goals:

- A financially sustainable sector
- Cost effective energy access

Strategic Principles:

- Financial sustainability
- Restructuring to foster commercialisation and PSP
- Capacity Building
- Energy Access and Affordability

³ Market Study of Heat-only Boilers and Coal-fired Water Heaters in UB, 2008, MNET

⁴ Source: Heating in Poor, Peri-urban Ger Areas of Ulaanbaatar, Mongolia, the World Bank, 2009.

⁵ Mongolian Energy Sector Development Strategy as endorsed by the Economic cabinet, March 2002.

- Energy conservation

Some key actions identified:

- Privatisation of State owned energy companies to be phased in
- Improve the metering equipment of the Distribution companies
- Create legal frameworks to promote energy conservation and efficiency
- An energy sector privatisation strategy to be prepared

23. The strategy clearly indicates the Government recognizes private sector resources need to be mobilized to implement the energy strategy and achieve the desired goals.

3.3 Energy Laws

24. There are three energy laws in Mongolia, the main Energy Law (made effective in April 2001 with minor modification in January 2007, the Energy Conservation Law (made effective in July 2003) and the Renewable Energy Law (made effective in January 2007).

25. Amongst these three laws, the main Energy Law is the most important as it was this Law which restructured the sector and introduced the current energy market. The stated purpose of this law is to:

“regulate matters relating to energy generation, transmission, distribution, dispatching and supply activities, construction of energy facilities and energy consumption that involve utilization of energy resources”.

Other significant provisions include:

- The assignment of sector responsibilities between the different agencies and levels of government, market participants, and also energy consumers
- The establishment of the Energy Regulatory Authority(ERA) and its responsibilities to regulate the energy market
- The licensing of participants in the energy market
- Principles and procedures for energy pricing

3.4 The Energy Market and its Regulation

(a) The Energy Regulatory Authority (ERA)

26. The ERA was established under the 2001 Mongolian Law on Energy. Its responsibilities are to regulate generation, transmission, distribution, dispatching and supply of energy as defined in the Energy law. Its specific powers are set out in article 9 of the Energy Law and include:

- To issue, amend, suspend and revoke licenses in accordance with this law
- To set operational and licensing terms and requirements for licensees; to monitor compliance with these terms and requirements;
- To develop methodology to determine tariffs, define the structure of tariffs; to review, approve, inspect and publish tariffs of licensees;
- To establish a pricing and tariff system that enables supply of energy at the lowest possible cost and allows an adequate rate of return;
- To resolve disputes between licensees and disputes between licensees and consumers in accordance with its jurisdiction;

(b) The Power Market

27. The power market currently operates as a single buyer market. The main power generators are CHP2, CHP3 & CHP4 who supply electrical energy to the Central Electricity Transmission Grid Co (CETG), which manages and maintains the national grid. The CETG

then makes electricity available to the Electricity Distribution Network Companies serving different parts of the country. In Ulaanbaatar there is one single distribution company, the Ulaanbaatar Electricity Distribution Network Company (UBEDN), which in turn supplies individual customers. .

28. Energy production planning, operational rules and decisions are taken by the separate National Energy Dispatch Company (NEDC), also established under the 2001 law on Energy, which determines how the CETG needs should be supplied and how available power should be shared out if there is a shortfall.

29. All market participants are licensed by the ERA which was a one off exercise that took place on the establishment of the market, with new licenses issued as appropriate to allow new entrants to enter the market. At the same time as the license were issued the ERA established a set of business rules under which the licensees must operate, and which must be incorporated as relevant into the relevant power purchase agreements (PPA). The ERA keeps these business rules under review and amends them from time to time.

30. Power Purchase Agreements (PPA) are entered into between the power generators and the CETG and Power Sales Agreements (PSA) between the CETG and the EDNs. These PPA are renewed on an annual basis, although the extent of annual changes is a matter that requires further investigation. The PPA prices are set by the ERA as part of its regulatory role.

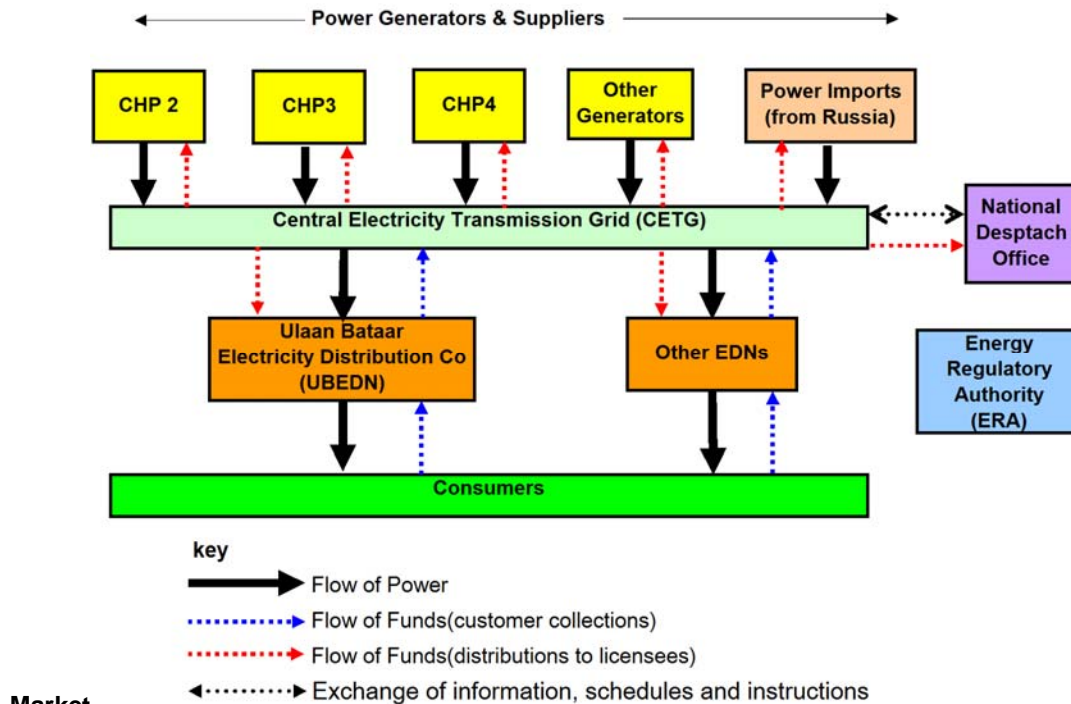
(c) Funds Flow Mechanism in the Power Market

31. The UBEDN bills all its customers and collects all revenues. The tariff revenues are deposited in a special bank account under CETG control and then all funds are distributed in accordance with pre-determined allocation percentages to the bank accounts of each of the market participants (the generators, CETG, NEDC, and the EDNs). This distribution takes place on a daily basis thus clearing the special bank account to a zero balance.

32. The ERA determines the allocation percentage entitlements of the different market participants and monitors the cash flows to each participant. The actual cash flows are compared with the entitlements of the market participants under the different PPA and surpluses and deficits identified. The percentage allocation is then reviewed on a quarterly basis with a view to removing any surpluses or deficits that have arisen.

33. **Figure 1** below identifies the market participants currently relevant to providing power to the capital city and shows both the flow of power supplies and cash. In UB all the market participants are currently State owned, but outside UB some private investors have already entered the market. As will be evident from the above, the power market currently operates as a single buyer market - however reforms to create a multi-buyer market have been studied and it is possible such reforms may be implemented in the future.

Figure 1: The Mongolian Power Supply



Source: TA Team

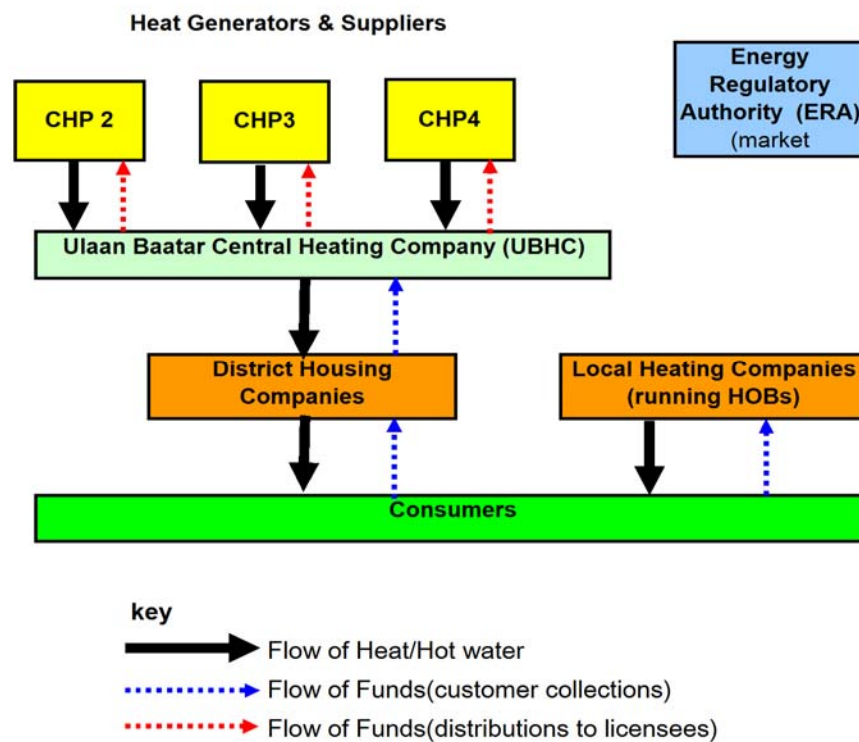
(d) The Heat Energy Market

34. Steam/Hot water for district heating and hot water supplies are provided by the CHP2, CHP3 and CHP4 plants to the Ulaanbaatar Central Heating Company (UBCHC) under a heat purchase agreement.

35. The UBCHC is a wholesaler that sells heat and hot water (the terms of which are in a heat purchase agreement) to municipal housing management companies (MHMC) that own/manage housing stock in the different parts of UB city. In all there are more than 20 of these housing companies in UB. The MHMC are heat and hot water retailers providing a heat and/or hot water service to individual apartments, commercial buildings and industries. Each MHMC is responsible for collecting heating & hot water charges and for paying for the bulk supplies it receives from UBCHC under its heat purchase agreement.

36. As for the electrical energy market the ERA regulate market operations and performance in the heating and hot water supply market. **Figure 2** below depicts the market operation in diagrammatic form.

Figure 2: The Ulaanbaatar Heating and Hot Water



Market

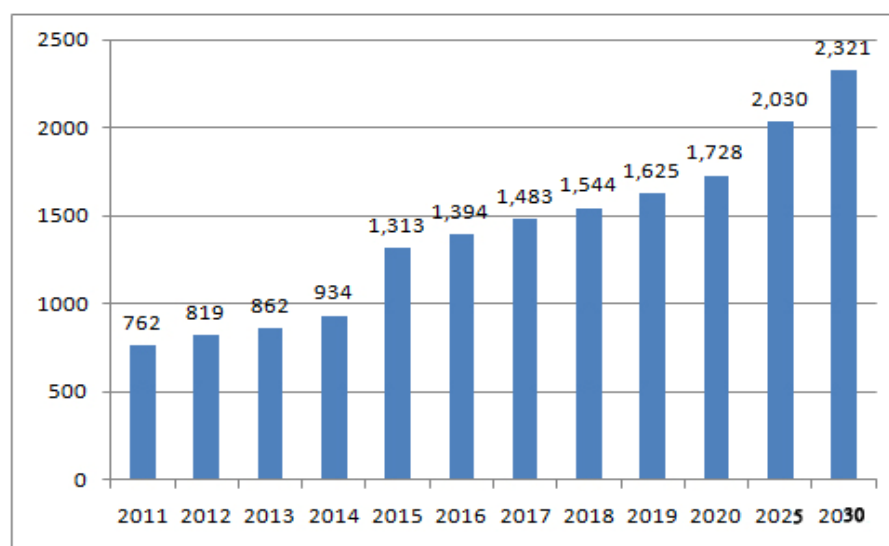
Source: TA Team.

3.5 Future Energy Demands

(a) The Demand for Electrical Power

37. As the Gobi mining area will be interconnected to the CES in 2015, this has been included in the demand growth forecast as shown in **Figure 3**.

Table 3: Power Demand Forecast by 2030



Source: TA Team estimates.

(b) Heating Demand

38. New heating capacity is needed to accommodate retirements at existing plants and also to meet new demand fuelled by the government's large scale construction of apartment blocks to replace sub-standard housing (including gers) not connected to the existing system.

39. Based on information collected by the TA Team and the UB City Master Plan, we estimated that additional heat demand will reach 343 Gcal/h by 2015, 991 Gcal/h by 2020, and 1,545 Gcal/h by 2030. Upon construction of CHP5, the CHP2 and CHP3 are expected to be phased out, in particular, the low pressure system which will free up to additional heat load of 110 Gcal/h. The total heating capacity by 2015 is therefore estimated to be 453 Gcal/h. Due to the fact that the high pressure system has been reconstructed in recent years, MMRE would like to keep the high pressure system of CHP3. **Table 2** provides detailed heat demand estimations during 2015, 2020 and 2030.

Table 2: Summary of Heat Demand Estimations

Item	Unit	2015	2020	2030
Retirement of Heat Capacity	Gcal/h	110	110	485
Additional Heat Demand	Gcal/h	343	991	1,545
Total Heat Demand	Gcal/h	453	1,101	2,030

Source: TA Team estimates.

3.6 Energy Tariffs

40. Energy sector tariffs at both the wholesale and retail level are currently set by the ERA which has an independent mandate to set tariffs based on the needs of the energy sector. In practice it does this following a consultative process with the Government and the market participants. The ERA has made significant progress in increasing tariffs at both the retail and wholesale level and also in introducing changes to the tariff structure that aim to (i) improve demand management, (ii) assist access by vulnerable members of the community; and (iii) reduce internal cross-subsidies within the energy sector whereby power customers subsidize heating. The average retail power tariff has increased from 45 MNT in 2001 to an average of 79 MNT in 2010 and the Government has plans for further increases over the next two years. Wholesale tariffs and revenues from sales are shown in **Table 3**

Table 3: Wholesale Power and Heat Tariffs.

Licensee	Unit	2001		2010		Increase	
		Tariff	Revenues	Tariff	Revenues	Tariff	Revenues
		(MNT)	(MNT million)	(MNT)	(MNT million)	%	%
CHP2 Electricity Heat	<u>Kwh</u> <u>Gcal</u>	32.21 3550	2573.9	64.05 8700	8065.2	98.85 147.04	213.35
CHP3 Electricity Heat	<u>Kwh</u> <u>Gcal</u>	32.94 3550	21187.6	60.90 8700	47644.1	84.88 147.04	124.87
CHP4 Electricity Heat	<u>Kwh</u> <u>Gcal</u>	23.05 2550	42986.7	35.85 8700	111000.0	55.53 243.92	158.22
Central Grid	<u>Kwh</u>	2.04	4127.9	3.15	11916.53	54.41	188.68
UB Distribution Network	<u>Kwh</u>	5.94	4668.6	16.23	21179.25	173.23	353.65
UB District Heating Network	<u>Gcal</u>	810	2069	2101	9363.0	159.38	352.54

Source: The Energy Regulatory Authority of Mongolia, May 2010.

3.7 Possible Investment Opportunities

41. The Government recognizes that the private sector can make a contribution to making the energy project more efficient and commercial for the ultimate benefit of consumers. Current energy projects either listed for implementation or under consideration include:

- Construction of CHP5 (820MW in two phases)
- Construction of a new power generation facility to serve the Gobi mining area
- Rehabilitation of CHP2 (as an alternative to its retirement)
- Possible privatisation of the Electricity Distribution Companies

42. Of these projects the first two are the most urgent and are currently being actively pursued by the Government.

4. The Economic and Regulatory Environment for Private Investment

4.1 Government Policy

43. The Government recognizes the importance of a healthy private in maintaining the growth and competitiveness of the Mongolian economy. The Government also recognizes the need for and potential benefits derived from inward foreign investment as a driver of economic development. Such foreign investment is therefore actively encouraged and supported. The applied principle is that foreign investors be treated equally with domestic investors.

44. The Government intends to form partnerships with the private sector (PPP) in order to improve public services and related infrastructure.

4.2 Government PPP objectives

45. The Government's objectives for entering into PPP contracts for the provision of public services and construction of infrastructure such as power plants will vary from project to project but are seen to include:

- Transferring certain risks to the private sector which the private sector are better equipped to manage than the government is;
- Minimizing whole-of-life costs for infrastructure projects and thus reducing user tariffs or subsidy requirements over the long term;
- Expediting implementation and construction time
- Improving service quality.
- Innovation. The private sector should have access to bring better and more efficient technology and management methods.
- Providing an alternative source of finance, thus allowing government financing and borrowing to be diverted to other social projects and programs less suitable for a PPP approach.

4.3 The Legal Framework

46. Mongolia has established a comprehensive suite of Laws and most of these are available in English. Laws of particular relevance to foreign investors include:

- The Foreign Investment Law (see below);
- The Law on Concessions (see below);
- The Civil Code of Mongolia (which governs the relationships between legal persons and whose provisions include recognizing the concept of intellectual property and the benefits attached thereto);
- The Law on Land and the Law on Land Use Fees (only Mongolian citizens and entities can own land outright, but foreign investors can lease and use land under contract).

47. *The Foreign Investment Law* was first enacted in July 1993 and modified in January 2002. The purpose of the law is to encourage foreign investment, to protect the rights and property of foreign investors and to regulate matters relating to foreign investment. The Law largely follows the principle that foreign invested businesses be treated on a equal basis to Mongolian businesses and are able to participate in any form of production or the provision of services unless this is specifically prohibited under Mongolian law. The law also allows for foreign investors making a large long term investment to enter into a tax stability agreement with the government to protect them from the adverse impact of future tax increases.

48. *The Law on Concessions* was enacted and became effective on 1st March 2010. The law includes provisions that:

- Formally recognize concession contracts with private companies as a legitimate means to deliver public services and exploit natural resources;
- Identifies the forms of contracts that are to be considered as concession contracts under the law.
- Creates a procedure for the conceptual approval to let a concession and defines the approval process for this;
- Establishes a procedure for the bidding, bid evaluation and negotiation of concession contracts.

- Assigns responsibilities for administering the law, the procurement and approval of concessions; and
- Establishes a PPP and Concessions unit within the State Property Commission to coordinate the implementation of the law (and to thus become a centre of excellence in the structuring and procurement of such contracts).

49. Since the new concession law became effective a large number of possible concessions (in excess of 120) have been identified and a schedule of intended PPP contracts has been approved by the Cabinet.

4.4 The Economic Outlook

50. GDP is currently in the order of US\$ 5 billion. The Mongolian economy returned to growth in 2010 after a weak 2009 and real GDP growth was approximately 5% over the last 12 months, but this is likely to increase significantly in coming years due to the Government's policy and program for an accelerated exploitation of the country's natural resources.

51. The local currency (the Tugrut) is relatively stable and the Government policy is for stable exchange rates to continue. The general trend in recent years has been for the Tugrut to appreciate slowly against the US\$ and this is likely to continue due to the high capital inflows to the Country triggered by the high level of foreign investment now being made in the mining sector.

52. Inflation was approximately 9% in 2010 and there are upward pressures caused by rises in global food prices and capital inflows. However, this need not create a macro-economic problem as long as real GDP growth is maintained at a healthy rate.

53. The budgetary deficit in 2009 was nearly 6% of GDP, but the Government has declared an intention to reduce this to between 2% and 3% by 2013.

4.5 Procurement

54. Government concessions and other contracts are generally subject to competitive bidding except in the following circumstances:

- It is considered that the competitive bidding may hamper national security
- Rights on the intellectual property considered necessary for the implementation of the concession is owned by one legal entity or an entity with joint interest.
- After the submission of competitive bids, no proposals are submitted or considered responsive and it is considered by the authorized organization that re-bidding would be unlikely to give a more successful outcome.
- The concession is being transferred to another party in accordance with provisions specified in Article 28 of the Law on Concessions.

55. For concession contracts the procurement arrangements and minimum contents of the concession contract are also set out in the Law on Concessions. The responsibility for arranging the procurement of a concession is vested in the authorized government organization - which for the energy sector is MMRE.

4.6 Corruption and Anti-corruption measures

56. The government is aware of the negative effect that corruption can have on the extent and quality of foreign investment a country is able to attract. Accordingly the law on anti-corruption was enacted in November 2006, the provisions of which include:

- Defines corruption and makes corrupt activities illegal and subject to punishment by either administrative or criminal action;
- Measures to promote public awareness over corruption and its adverse effects;
- Established an independent "Anti-corruption Agency" to receive complaints regarding corrupt activity and to investigate suspected corruption;

- Requiring government officials and members of the judiciary to make regular statements of their assets

5. Conclusion

57. Mongolia is a relatively new democracy that is progressively opening up its economy and with a government that actively encourages foreign investment. It has adopted policies and a framework of laws to encourage and support foreign investment. The government also has the objective of increasing the size of the private sector and to modernize and improve the competitiveness of sectors previously under close government control and/or ownership. The Energy sector is one such sector, where a change in energy strategy has led to institutional restructuring and the creation of a regulated market that it is intended will ultimately result in greater competition and private sector involvement.