

Vietnam's updates to the new draft circular on the corporate synthetic DPPA pilot program for renewable energy

In brief

The Ministry of Industry and Trade of Vietnam (MOIT) recently released a new draft circular regarding the implementation of the pilot program for direct power purchase agreement (DPPA) mechanisms between renewable energy developers/power generation companies and private power buyers/consumers ("**New Draft DPPA Circular**").¹

Compared to the previous draft (in the form of a Prime Minister decision and later an MOIT decision), this new draft in the form of an MOIT circular has made certain changes with more detailed guidelines for implementing the DPPA pilot program.

The new draft circular retains a tight timeline for submission of applications by consumers. Within 45 working days from the date of the MOIT's opening of the pilot DPPA program's electronic information portal, generators/developers and power consumers who wish to participate will be required to prepare and submit their registration applications via the electronic information portal.

In terms of the COD deadline, the new draft circular has slightly extended the timeline compared to the previous draft, from 180 days (six months) to 270 days (nine months). Specifically, within 270 working days from the date on which the list of generation companies (GENCOs) and power consumers participating in the pilot DPPA program is announced, the participating GENCOs and power consumers must proceed with and finalize negotiations and execution of the necessary DPPA contracts, proceed with implementing and completing their development of selected renewable energy projects, achieve their commercial operation to participate in the wholesale competitive electricity market of Vietnam, and officially conduct the transactions under the DPPA mechanism.

The MOIT has also introduced a new requirement that the participating power consumers and developers must have a "binding in-principle agreement" for the sale and purchase of power to be selected. This kind of agreement (e.g., CfD in-principle agreement) must be submitted as part of registration application documents.

The new draft circular includes a list and templates of application documents required to be completed and submitted to the MOIT/ERAV in order to participate in the upcoming DPPA pilot program (together with other detailed guidelines).

However, the launch date of the DPPA pilot program remains to be confirmed and depends on when the MOIT Minister signs the proposed new circular.

DPPA mechanisms (also known as corporate PPAs) are surging around the world as a new driver and catalyst for renewable energy projects. Under the New Draft DPPA Circular, synthetic DPPA mechanisms (also known as financial, virtual direct or corporate PPAs) for off-site renewable energy projects in Vietnam was proposed with a pilot program at a scale ranging from 400MW to 1,000MW to be implemented from 2021 to 2023.

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¹ The New Draft Circular is attached together with MOIT's Electricity Regulatory Authority of Vietnam (ERAV)'s Official Letter No. 157/DTDL-TTPT dated 18 February 2021, requesting for comments on the draft circular on the implementation of the pilot program on direct power purchase agreement (DPPA) mechanisms between renewable energy power generation companies and power consumers.

The DPPA mechanism refers to a power purchase agreement arrangement in which the power purchasers (off-takers) are private power consumers. This represents a growing global trend whereby instead of buying electricity directly from the state utility off-taker, private businesses purchase electricity directly from independent power developers (generators) under long-term contracts.

The New Draft DPPA Circular proposes specific mechanisms and principles for the pilot DPPA program, as well as its proposed scope, scale and objectives for implementing the pilot program.

Notably, these proposals continue to set out the specific criteria for participating private sector stakeholders, including renewables developers and private power consumers, and they place certain limitations on potential participants. Under the New Draft DPPA Circular, the MOIT proposed that participating generators/GENCOs be limited to solar and wind power generation project companies with solar or wind power plants each having an installed capacity of greater than 30MW (in the case of a solar farm, 01 MWp (DC capacity) shall be equivalent to 0.8 MW (AC capacity)), which has been approved for inclusion in the power development plans. In terms of qualifications for consumers under the New Draft DPPA Circular, the MOIT proposes that participating power consumers be limited to power consumers for industrial manufacturing purposes who purchase electricity at a voltage level of 22 kV or more.

In addition, the New Draft DPPA Circular sets out key transactional arrangements under draft DPPA contracts, including:

- (i) contract-for-differences (CfD) between GENCOs and power consumers
- (ii) "market buyer power supply agreement" between power consumers and EVN/PC
- (iii) power purchase agreements between GENCOs (as power sellers) and EVN (as power buyers)
- (iv) interconnection agreements between GENCOs and EVN/PC
- (v) associated arrangements with the Vietnam Wholesale Electricity Market (VWEM) and more details of DPPA charges and components

Recommended actions

Renewable energy developers and power consumers should take into account the MOIT's updated regulations and take the necessary steps to best position themselves to catch investment opportunities in the electricity business industry, given the tight timeline for bid submission once this proposed circular is signed in the final form.

In depth

Proposed scope and scale of the pilot program

Under the New Draft DPPA Circular, the MOIT proposes that the scope of the pilot DPPA program be applied nationwide with a limited total size ranging from **400 MW to 1,000 MW**. Notably, if the total capacity of all applications to be submitted to the MOIT's portal exceeds 1,000MW, the selection of participants (both consumers and developers) will be on a first-come first-served basis.

The MOIT has provided the following explanations for this proposal:

- The MOIT previously proposed a scale of 400 MW based on its survey conducted in 2018. However, the MOIT received in 2019 recommendations regarding the further demands of large power consumers.
- In response, the proposed scale was raised to 1,000 MW.
- The proposed scale is to balance the capability of control and management by the government of the proposed Pilot Program while making it large enough to assess its effects and difficulties during implementation, among other factors.

Proposed criteria for participating private power developers / GENCOs

Under the New Draft DPPA Circular, the MOIT proposed that participating GENCOs be limited to **solar and wind power generation project companies with solar or wind power plants each having an installed capacity of greater than 30MW (in the case of a solar farm, 01 MWp (DC capacity) shall be equivalent to 0.8 MW (AC capacity)), which has been approved for inclusion in the power development plans.**

Compared to the previous draft version, the MOIT introduced a new requirement that the participating GENCOs must have a "binding in-principle agreement" with power consumers for sale of power to be selected. This may mean that interested participating developers should procure necessary "binding in-principle agreement" with power consumers as a pre-condition for participating in the upcoming DPPA pilot program.

As one of the criteria for selection, GENCOs are required to commit to put the power plant into commercial operation and participate in the VWEM no later than 270 working days from the date on which the list of GENCOs and power consumers participating in the pilot DPPA program is announced.

In addition, at the time of registering for participation in the DPPA program, GENCOs must possess documents from financial institutions or banks as lenders regarding financing support/arrangements for the power project.

Proposed criteria for participating private power consumers

Under the New Draft DPPA Circular, the MOIT proposes that participating power consumers be limited to **power consumers for industrial manufacturing** purposes who purchase electricity at a voltage level of 22 kV or more.

Similarly, compared to the previous draft version, the MOIT introduces a new requirement that the participating power consumers must have a "binding in-principle agreement" with GENCOs for the purchase of power to be selected.

As one of the criteria for selection, power consumers must commit that, for the first three years of its participation in the pilot DPPA program, the amount of power to be purchased from GENCOs within a year must be at least 80% the total amount of power consumed that is supplied by EVN/PC within the same year.

Proposed tentative plan and schedule for implementation of the pilot program

Under the Draft New DPPA Circular, the MOIT proposes that the pilot DPPA program be implemented from 2021 to 2023, with the following specific timelines:

- a) Within 15 working days from the date on which this proposed DPPA circular comes into effect (which is to be determined), the MOIT will announce the launch of the pilot DPPA program.
- b) Within 15 working days from the date of announcing the launch of the pilot DPPA program, the MOIT will open the pilot DPPA program's electronic information portal to receive applications from GENCOs and power consumers.
- c) Within 45 working days from the date of the MOIT's opening of the pilot DPPA program's electronic information portal, GENCOs and power consumers who wish to participate will be required to prepare and submit their registration applications via the electronic information portal.
- d) Within 45 working days from the date of closing the pilot DPPA program's electronic information portal, the MOIT will organize and administer the process of assessing, selecting and announcing a list of GENCOs and power consumers selected to participate in the pilot DPPA program.
- e) Within 270 working days from the date on which the list of GENCOs and power consumers participating in the pilot DPPA program is announced, the participating GENCOs and power consumers will proceed with and finalize negotiations and execution of the necessary DPPA contracts, proceed with implementing and completing their

development of selected renewable energy projects, achieve their commercial operation to participate in the competitive electricity market of Vietnam, and officially conduct the transactions under the DPPA mechanism.

- f) Based on the results of implementing the transactions under the pilot DPPA mechanism within a period of one year from the expiry date of the timeframe during which the GENCOs must complete commercial operations of their power plants and participate in the competitive electricity market of Vietnam, the MOIT/ERAV will conduct assessments of the same from market, technical, financial and legal aspects in order to make reports to the higher authorities for deciding on nationwide official implementation of this DPPA mechanism. On this point, compared to the previous draft, the new draft circular has removed the deadline of no later than 30 June 2022.

Proposed registration, assessment and selection of participants

The New Draft DPPA Circular proposes the following general arrangements:

- a) GENCOs and power consumers will register their participations in the pilot DPPA program by uploading soft copies of their application dossiers via the electronic information portal of the MOIT/ERAV on the pilot DPPA Program, with hard original copies of the application dossiers submitted in person or by post to the MOIT/ERAV Office.
- b) Applications of GENCOs and power consumers will be assessed for selection based on certain detailed criteria to be issued by the MOIT.
- c) The list of GENCOs and power customers participating in the pilot DPPA program will be announced on the MOIT/ERAV's electronic information portal.

DPPA pricing mechanisms and contractual framework

Under the new draft circular, DPPA pricing mechanisms and contractual framework are proposed to follow these principles:

- a) GENCOs will sell power to EVN/PC at the "spot price" as determined in accordance with the MOIT's regulations on the operation of Vietnam Wholesale Electricity Market (i.e., current Circular No. 45/2018/TT-BCT, as amended).
GENCOs must register for participation in the VWEM and sign a PPA with EVN/PC. The template of the PPA between GENCOs and EVN/PC for the DPPA mechanism will follow the MOIT's PPA templates for grid-connected solar or wind projects (with some adjustments for consistency with DPPA mechanism as specified under Annex 2 of the new draft circular). PPA contract term is proposed to be 20 years.
- b) Power consumers will take and buy power from EVN/PC, at the price equal to the sum of: (i) the energy cost (at the spot price), taking into account power loss factor; and (ii) DPPA charges/service fees, including transmission costs/fees, distribution costs/fees, system and market operation and dispatch charges, and auxiliary services charges/fees.
- c) Power consumers will enter into a contract-for-differences (CfD) with GENCOs, mainly to regulate: (i) GENCO's power supply commitments; and (ii) a strike price to manage the risks of spot price fluctuations. More specifically, Annex 3 of the new draft circular regulates the key terms of the CfD, as follows:
 - The power consumer and the GENCO may negotiate and agree on the contractual strike price.
 - If the agreed strike price is higher than the spot price, the power consumer will pay GENCO the amount of the difference between the strike price and the spot market price. If the agreed strike price is lower than the spot price, GENCO will pay the power consumer the amount of the difference between the strike price and the spot market price.
 - CfD contract term may be agreed on for period between 10 years and 20 years from the commercial operation date.
 - Under the CfD template provided under the new draft circular, GENCO must provide its power consumers with a guarantee letter issued by a commercial bank/credit institution to guarantee GENCO's obligation to complete construction of the power plant. Meanwhile, on or before the COD of the power plant, the

