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**Vietnam Corporate Direct  
Power Purchase Agreement  
(DPPA) new draft Decree  
released for public  
comments**

24 December 2024



# Table of contents

I.	Key highlights.....	2
II.	More details of the synthetic DPPA mechanism .....	5
1.	Synthetic DPPA Model structure .....	5
2.	Payment mechanism under Forward Contract (or CfD) between RE GENCO and Large Consumer .....	6
3.	Payment mechanism under the spot market/VWEM Power Purchase Agreement between RE GENCO and EVN.....	7
4.	Payment mechanism under Power Purchase Agreement between Large Power Consumer and EVN PC .....	7

# I. Key highlights

Following the recent issuance of the new Electricity Law dated 30 November 2024 (“**New Electricity Law**”), in late December 2024, the Ministry of Industry and Trade of Vietnam (“**MOIT**”) released the first drafts of five decrees of the Government regulating in detail certain contents of the new Electricity Law for public comments, including:

- 1) Draft Decree of the Government on the development of renewable energy and new energy, covering specific regulations on offshore wind, self-produced and self-consumed power, and other regulations on other renewable energy and new energy (“**Draft Renewable Energy Decree**”);
- 2) Draft Decree of the Government on power development plan, investment and construction of power projects, covering domestic gas, LNG to power projects and other renewable energy power projects (except for offshore wind) (“**Draft Decree on Power Project Development**”);
- 3) Draft Decree of the Government on the direct power sale and purchase agreement (“**DPPA**”) mechanisms between renewable energy generation companies (“**RE GENCO**”) and large power consumers (“**Large Power Consumers**”) (“**Draft New DPPA Decree**”), which is proposed to replace Decree No. 80/2024/ND-CP dated 3 July 2024 (“**Current DPPA Decree No. 80**”);
- 4) Draft Decree of the Government on power operation licenses (“**Draft POL Decree**”); and
- 5) Draft Decree of the Government on the protection of electrical works and safety in the electricity area (“**Draft Decree on Electrical Works Safety**”).

These new decrees are currently proposed to take effect on 1 February 2025 as the same effective date as the new Electricity Law.

This document of our legal updates focus on the renewable energy DPPA mechanisms under the Draft New DPPA Decree.

We set out below the notable and key regulations and issues of the Draft New DPPA Decree in relation to renewable energy in Vietnam:

- (a) Overall, the Draft New DPPA Decree has inherited most provisions of the Current DPPA Decree No. 80, with certain new revisions proposed and certain issues remaining.
- (b) Following the New Electricity Law’s continuance to recognize the two models of (i) physical / private-wire DPPA and (ii) synthetic/virtual grid-connected DPPA model as approved by the government under the Current DPPA Decree No. 80, the Draft New DPPA Decree provides for regulations on these two models in further detail as required under Article 47.3 of the New Electricity Law.
- (c) With respect to the **physical or private-wire DPPA model** for renewable energy sources:
  - (i) The governing scope for this DPPA mechanism has covered all renewable energy sources based on the new definition of “renewable energy power”. Particularly, the Electricity Law (Article 4.14) defines “**renewable energy power**” as electrical power produced from one or more of the following primary energy sources: (i) solar energy; (ii) wind energy; (iii) ocean energy, including tides, sea waves and ocean currents; (iv) geothermal energy; (v) energy from hydropower; (vi) biomass energy (including biofuels and other forms of energy derived from plants); (vii) energy from waste from production, business and daily life processes, except for waste from production and business processes using fossil fuels and wastes

determined to be hazardous according to the law on environmental protection; (viii) other forms of renewable energy as prescribed by law.

- (ii) Compared to the Current DPPA Decree No. 80, the Draft New DPPA Decree has supplemented further guidelines on RE GENCO's sale of excess power to EVN grids. Accordingly, RE GENCO may negotiate, agree upon, and sign an excess PPA for capacity, output, and prices for excess power with EVN (or its authorized entity) based on the following principles:
  - (A) EVN (or its authorized entity) shall pay the RE GENCO for the excess power fed into the national grid in accordance with the regulations on promoting renewable energy development issued by the Government; and
  - (B) The purchase price of excess power fed into the national grid shall be equivalent to the average market energy price of the preceding year, as announced by the system and market operator (**NSMO**), to ensure appropriate incentives during each development period of the national electricity system.
  
- (d) With respect to **synthetic/virtual DPPA model** for grid-connected solar or wind power projects:
  - (i) Compared to the Current DPPA Decree No. 80, the Draft New DPPA Decree does not limit qualified large power consumers to those purchasing power serving **manufacturing** purposes. If so approved, it may allow more power consumers to join the synthetic DPPA mechanism.
  - (ii) Unlike the Current DPPA Decree No. 80, the Draft New DPPA Decree does not require power retailers in industrial parks, economic zones, export processing zones, industrial clusters, hi-tech parks, concentrated information technology parks, high- agricultural parks and other similar models as regulated by the competent State authorities ("**Authorized Power Retailers**") to meet (A) a minimum power output of  $\geq 200,000$  kWh per month of its purchase from EVN PCs or (B) a grid connection at  $\geq 22$  kV of voltage level from EVN PCs, when such Authorized Power Retailers participate, on the power off-taker side, in synthetic DPPAs, when they have been authorized (by Large Power Consumer(s)) to purchase power from EVN PCs and enter into Forward Contract(s) with RE GENCOs. If so approved, it may allow more power retailers to join the synthetic DPPA mechanism.
  - (iii) However, in order to qualify as a large power consumer, although the New Electricity Law introduces a more flexible definition of large power consumers, under the Draft New DPPA Decree, similar to the Current DPPA Decree No. 80, the power consumer must still have having a minimum power output when participating in a synthetic DPPA, particularly:
    - (A) for existing power consumers who are using electricity: average consumption of 200,000 kWh per month or more (calculated on average in the last 12 months); or
    - (B) for new power consumers or other consumers with electricity usage times of less than 12 months: calculated according to their registered output of 200,000 kWh per month or more.
  - (iv) In this regard, the Draft New DPPA Decree supplements an annual review of qualifications of participating power consumers by regulating that:

- (A) Before December 15 of year N, based on the list of large power customers who do not meet the conditions to participate in the DPPA mechanism as provided by EVN PCs, the NSMO will report to the MOIT for consideration and issuance of a decision on a temporary suspension of power large power customers from participating in the DPPA mechanism.
- (B) By December 30 of year N, the NSMO will announce such MOIT decision on the temporary suspension of large power customers from participating in the DPPA mechanism in such case.
- (C) In order to participate in the DPPA mechanism in year N+1, the power consumer's average monthly consumption of year N before the review period must not be less than 200,000 kWh/month. If a large power consumer already participates in year N but it no longer meets the condition of average monthly consumption of year N+1, the synthetic DPPA mechanism will be temporarily suspended with respect to such power consumer.

As consequential payments in case of temporary suspension, the retail tariff, as prescribed by MOIT, will be applied to Consumer/IP Authorized Power Retailer; and RE GENCO and EVN shall negotiate and agree on the generation price within the applicable renewable energy price bracket or any other applicable pricing mechanisms, under the Draft New DPPA Decree, similar to the Current DPPA Decree No. 80.

- (v) The Draft New DPPA Decree requires the NSMO to monitor the allocation ratio of actual electricity output (at the delivery point) from RE GENCOs to large power consumers (Authorized Power Retailers) in each transaction cycle to ensure that the total actual electricity output values (at the delivery point) allocated in each transaction cycle do not exceed the measured output of the RE GENCO in the corresponding transaction cycle.

Other than the above-noted changes and some other ancillary language updates, the Draft New DPPA Decree remains unchanged most contents of the Current DPPA Decree No. 80.

Separately, the Draft Renewable Energy Decree provides a guideline in relation to DPPA projects under bidding for investor selection of greenfield solar or wind project for synthetic DPPA. Specifically, the criteria for evaluating the efficiency of investment in development of the electricity sector for projects without price brackets is (i) the minimum value equal to the amount remitted to the state budget or (ii) the minimum revenue rate remitted to the state budget. The bidding investors will have to propose the value or percentage in the bid dossier not lower than the minimum level specified in the invitation-to-bid dossier. The value or ratio specified above is independent of the investor's obligations to the state budget as prescribed by laws. In addition, the Draft Renewable Energy Decree clarifies that power business investment project contract may include conditions for the project to change the revenue contract form: (i) from power purchase and sale with EVN (or relevant PC) to DPPA or (ii) DPPA to power sale and purchase with EVN (or relevant PC).

For more details of the Draft New DPPA Decree, please refer to the next page below, noting that these are still in the draft form, subject to public comments and further updates by the MOIT until the proposed decree can be issued by the government in replacement of the Current DPPA Decree No. 80.

In the meantime, this new draft should serve as another round of enhancement to the DPPA framework, without interrupting the existing developments of DPPA projects under the currently effective DPPA Decree No. 80.

# II. More details of the synthetic DPPA mechanism

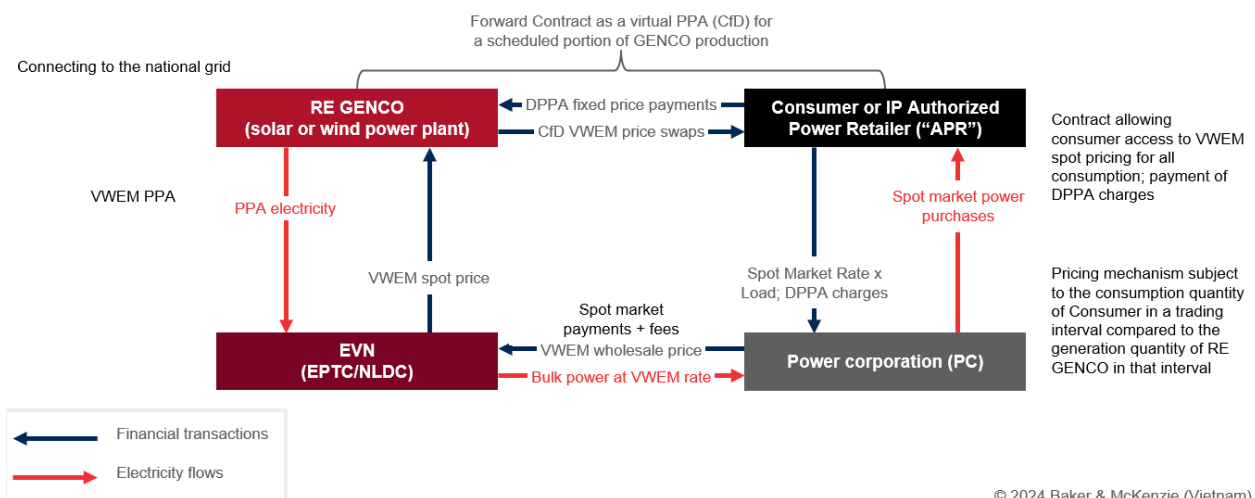
## 1. Synthetic DPPA Model structure

### 1.1 Structure

Direct sale and purchase of power via the national grid ("Grid-Connected DPPA" or also known as "Synthetic DPPA") is the sale and purchase of power via a forward contract between an RE GENCO and a Large Power Consumer (or authorized IP/EZ/EPZ power retailer/utility), particularly:

- RE GENCO sells its entire power output via the spot market of the Vietnam Competitive Wholesale Electricity Market ("VWEM") under a VWEM PPA with EVN;
- Large power consumer (or an authorized IP/EZ/EPZ power retailer/utility) buys electricity from the grid via a power purchase agreement with EVN Power Corporation to meet its power demands; and
- RE GENCO and Large Power Consumer (or an authorized IP/EZ/EPZ power retailer/utility) enters a forward contract (also known as Contract for Differences (CfD)).

The structure is basically illustrated as below:



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### 1.2 Key contracting parties in synthetic DPPAs

#### (a) Renewable energy generation companies (RE GENCO)

An RE GENCO participating in a synthetic DPPA must be a power generation company owning a **grid-connected wind or solar** power plant with an installed capacity of  $\geq 10$  MW, and such plant will need to directly participate in the VWEM.

#### (b) Large Power Consumers

Power consumers (off-takers) participating in synthetic DPPAs must be:

- (vi) "large power consumers" who are defined as electricity buyers:

- (A) purchasing power for their use without reselling power to any other organizations and individuals,
- (B) determined according to the regulations of the MOIT in line with the development of the power system from time to time; and
- (C) having power output when participating in a synthetic DPPA as follows:
  - for existing power consumers who are using electricity: average consumption of 200,000 kWh per month or more (calculated on average in the last 12 months); or
  - for new power consumers or other consumers with electricity usage times of less than 12 months: calculated according to their registered output of 200,000 kWh per month or more;
- (vii) purchasing power from EVN Power Corporations or power retailers with connection at  $\geq 22$  kV of voltage level.

(c) **Authorized Power Retailers**

Power retailers in industrial parks, economic zones, export processing zones, industrial clusters, hi-tech parks, concentrated information technology parks, high- agricultural parks and other similar models as regulated by the competent State authorities ("**Authorized Power Retailers**") may participate, on the power off-taker side, in synthetic DPPAs if:

- (i) they have been authorized (by Large Power Consumer(s)) to purchase power from EVN PCs and enter into Forward Contract(s) with RE GENCOs; and
- (ii) they have been granted a power operation license for power retail in such park/zone/cluster.

## 2. Payment mechanism under Forward Contract (or CfD) between RE GENCO and Large Consumer

Larger Power Consumers (or Authorized Power Retailers) and RE GENCO shall calculate and pay the contracted electricity output under the Forward Contract based on the difference between the committed contract price and the spot electricity market price (as the reference price), specifically as follows:

$R_c = \sum_{i=1}^I [P_{c(i)} - FMP_{(i)}] \times Q_{c(i)}$	
$R_c$ :	The revenue of RE GENCO under Forward Contract in the payment cycle (VND)
$P_{c(i)}$ :	Committed contract (strike) price under Forward Contract (VND per kWh)
$FMP_{(i)}$ :	Spot market electricity price in trading interval (i) (VND per kWh)
$Q_{c(i)}$ :	Committed power quantity/output under Forward Contract in trading interval (i) (kWh)



### 3. Payment mechanism under the spot market/VWEM Power Purchase Agreement between RE GENCO and EVN

The energy payment for RE GENCO selling electricity on the spot electricity market is determined according to the following formula:

$$R_g = \sum_{i=1}^I Q_{mq(i)} \times FMP_{(i)}$$

$R_g$ :	Total amount of market energy payments in the payment cycle (VND)
$Q_{mq(i)}$ :	Metered quantity/output of RE GENCO in trading cycle (i) (kWh)
$FMP_{(i)}$ :	Full spot market electricity price in trading cycle (i) (VND per kWh)
$FMP_{(i)} = SMP_{(i)} + CAN_{(i)}$	
$SMP_{(i)}$ :	Spot market electricity price in trading cycle (i) (VND per kWh)
$CAN_{(i)}$ :	Market capacity price in trading cycle (i) (VND per kWh)

RE GENCO must make a day-ahead projection of power output of the power plant for each trading cycle and make offerings in accordance with MOIT's VWEM operation regulations.

RE GENCO, NSMO and EVN shall prepare, publish, compare and confirm spot market payment statements in accordance with MOIT's VWEM operation regulations.

RE GENCO and EVN shall perform procedures and works for payments in accordance with the executed PPA.

### 4. Payment mechanism under Power Purchase Agreement between Large Power Consumer and EVN PC

#### 4.1 The general principles for Large Power Consumer's power purchase with EVN PCs are as follows:

- (a) Large Power Consumer (or Authorized Power Retailers) can buy electricity from EVN Power Corporation(s) to meet all their demands.
- (b) If the electricity consumption output of a Large Power Consumer (or the electricity purchase output of an Authorized Power Retailer) in a trading cycle is **lower** than the [generation] output of RE GENCO in such trading cycle, the entire electricity consumption output of Large Power Consumer (or the entire electricity purchase output of the Authorized Power Retailer) shall be settled under the synthetic DPPA mechanism, with the following components:
  - (i) The cost/charge for purchasing electricity from EVN Power Corporation(s) at the spot electricity market price in accordance with VWEM Regulations (taking into account the power losses on the transmission grid and distribution grid);



(ii) Charges for using electricity system services, including power transmission, electricity distribution — retailing, dispatching of electricity system and administration of electricity market transactions, administration — management of the power sector (i.e., DPPA Charge); and

(iii) Costs for clearing the difference.

Detailed formulas for calculating each of these components are provided in Section 4.2 below.

(c) If the electricity consumption of a Large Power Consumer (or the electricity purchase output of an Authorized Power Retailer) in a trading cycle is **higher** than the [generation] output of RE GENCO in such trading cycle, payments shall be made as follows:

(i) The portion of electricity consumption of Large Power Consumer (or the portion of electricity purchase output of the Authorized Power Retailer) corresponding to the [generation] output of RE GENCO shall be paid according to Section 4.1(b) above;

(ii) The difference between the electricity consumption output of Large Power Consumer (or the electricity purchase output of the Authorized Power Retailer) and the [generation] output of RE GENCO shall be paid at the electricity retail price applicable to the corresponding group of customers, the use purpose, the voltage level and time of use in a day in accordance with the MOIT's regulations on electricity selling prices. The formula for determining the cost/payments for the difference at the electricity retail price is provided in Section 4.2(d) below.

## 4.2 Determination of payments by Large Power Consumer to EVN PC

The total electricity purchase cost of Large Power Consumer (or Authorized Power Retailer) in each payment cycle of Year N shall be determined according to the following formula:

$$C_{KH} = C_{TTD} + C_{BL}$$

$$= (C_{DN} + C_{DPPA} + C_{CL}) + C_{BL}$$

$C_{KH}$ :	Total electricity purchase charges of Consumer from EVN PC (VND)
$C_{DN}$ :	Energy charge paid based on the electricity market price (VND)
$C_{DPPA}$ :	DPPA charge (for use of services and grids of the power system)
$C_{CL}$ :	Difference clearing charge (VND)
$C_{BL}$ :	Electricity charge paid based on the electricity retail tariff in each trading cycle (VND)

(a) The component of energy charge paid on the electricity market price (CDN)

The component of energy charge paid on the electricity market price in each payment cycle of Year N (CDN) is determined according to the following formula:

$$C_{DN} = \sum_{i=1}^I Q_{KHhc(i)} \times CFMP_{(i)} \times K_{pp}$$

$Q_{KHhc(i)}$  : Adjusted electricity consumption/output of Consumer in trading cycle (i) (kWh)

$CFMP_{(i)}$  : Electricity purchase price from EVN PC in the spot market in trading cycle (i) under VWEM (VND/kWh)

$K_{pp}$  : Power distribution loss coefficient in trading cycle (i) applicable to EVN PC in year N (varying between Consumers with a **voltage level less than 110 kV** and those with a level **equal to or more than 110 kV**)

$$CFMP_{(i)} = CSMP_{(i)} + CCAN_{(i)}$$

$$= FMP_{(i)} \times k_{(i)}$$

$CFMP_{(i)}$  : Spot market price for wholesale electricity buyers (PC) in trading cycle (i) (VND per kWh)

$CSMP_{(i)}$  : Market electricity price for wholesale electricity buyers (PC) in trading cycle (i) (VND per kWh)

$CCAN_{(i)}$  : Market capacity price for wholesale electricity buyers (PC) in trading cycle (i) (VND per kWh)

$k_{(i)}$  : Power transmission loss coefficient in trading cycle (i)

$$FMP_{(i)} = SMP_{(i)} + CAN_{(i)}$$

$FMP_{(i)}$  : Full market electricity price in trading cycle (i) (VND per kWh)

$SMP_{(i)}$  : Market electricity price in trading cycle (i) (VND per kWh)

$CAN_{(i)}$  : Market capacity price in trading cycle (i) (VND per kWh)

(b) DPPA Charges (CDPPA)

The cost of using electricity system services (CDPPA) is determined according to the following formula:

$$C_{DPPA} = \sum_{i=1}^I Q_{KHhc(i)} \times C_{DPPAdv}$$

i :	Trading cycle (i) in the payment period
I :	Total number of trading cycles in the payment period
$Q_{KHhc(i)}$ :	Adjusted power consumption of Consumers (or authorized IP Power Retailers) in the trading cycle (i) (kWh)
$C_{DPPAdv}$ :	DPPA charges per unit of power of year N (VND/kWh)

DPPA charges consist of the following charges: (i) transmission charge (ii) distribution charge and retail charge, and (iii) NSMO charge.

DPPA charges are determined by adding the total cost and estimated profit of the above services, which is then divided by the total domestic commercial generation quantities of EVN PCs.

Charges used to calculate DPPA charges are based on approved data of year N. Otherwise, data from year N-2 is used. If data from year N-2 is used, the estimated profit of the above services is determined by multiplying the owner's equity with the return on equity presented in the current average retail electricity price plan in year N-2.

(c) Difference clearing costs (CCL)

The costs of clearing the differences (CCL) are determined as follows:

$$C_{CL} = \sum_{i=1}^I Q_{KHhc(i)} \times P_{CL}$$

$C_{CL}$ :	Difference clearing charge
i :	Trading cycle (i) in the payment period
I :	Total number of trading cycles in the payment period
$Q_{KHhc(i)}$ :	Adjusted power consumption of Large Power Consumers in the trading cycle (i) (kWh)
$P_{CL}$ :	Cost of clearing differences for month M per unit of power for Large Power Consumers (VND/kWh)

$$P_{CL} = P_{CLTTBOT} + P_{CCLTTGT} + P_{CLTTSMHP} + P_{DVPT} + P_{CLTTK}$$

$P_{CLTTBOT}$ :	The difference in BOT components payment related to <b>BOT power plants</b> (VND/kWh) for month M-2
$P_{CCLTTGT}$ :	The difference in component payments to <b>power plants indirectly participating in VWEM</b> , including RE GENCO, power plants selling surplus power and power importing [from other countries] (VND/kWh)
$P_{CLTTSMHP}$ :	The difference in component payment for <b>strategic multi-purpose hydropower plants (SMHPs)</b> in the month (VND/kWh)
$P_{DVPT}$ :	<b>Ancillary service charge</b> per unit of power (VND/kWh)
$P_{CLTTK}$ :	The <b>additional payment difference</b> per unit of power (VND/kWh) arising from costs that are allowed to be included in the electricity price but have yet to be incorporated

(d) Retail power payments for remaining power supply (CBL)

In case the electricity consumption of a Large Power Consumer (or the electricity purchase output of an Authorized Power Retailer) in a trading cycle is **higher** than the [generation] output of RE GENCO in such trading cycle, the portion of the difference between the electricity consumption output of Large Power Consumer (or the electricity purchase output of the Authorized Power Retailer) and the [generation] output of RE GENCO shall be paid at the electricity retail price applicable to the corresponding group of customers, the use purpose, the voltage level and time of use in a day in accordance with the MOIT's regulations on electricity selling prices.

Such cost/payments for the difference at the electricity retail shall be determined as follows:

$$C_{BL} = \sum_{i=1}^I (Q_{KH(i)} - Q_{KHhc(i)}) \times P_{BL(i)}$$

$P_{BL(i)}$ :	Current retail electricity tariff in trading cycle (i) issued by the MOIT (VND/kWh)
$Q_{KH(i)}$ :	Actual consumption quantity of Consumer in trading cycle (i) (kWh)
$Q_{KHhc(i)}$ :	Adjusted power consumption of Consumer in trading cycle (i) (kWh)

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