

## Launch of the Direct Power Purchase Mechanism in Vietnam

Asia Newsletter

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### 1. Background

On 3 July 2024 the Vietnamese government promulgated Decree 80/2024/ND-CP ("**Decree 80**") on direct power purchase agreements ("**DPPAs**"), which is effective immediately. Decree 80 sets out a framework for large energy consumers to contract directly with renewable energy producers for supplies of energy. This is a long-awaited move by the Vietnamese government; a DPPA mechanism has been under discussion for several years. The issuance of Decree 80 has been warmly welcomed by industry participants and should be a positive development for the electricity sector in Vietnam. This newsletter outlines some key features of Decree 80 and the DPPA mechanism.

### 2. Participants

Decree 80 broadly regulates direct energy sale arrangements between:

- Renewable energy power generators ("**RE Gencos**"); and
- Large electricity end users ("**Buyers**").

In addition, EVN Power Companies<sup>1</sup> ("**EVN PCs**") play an important intermediary role in the case of Grid Connected DPPAs (see below for discussion of the two different DPPA mechanisms).

#### *RE Gencos*

RE Gencos that fall within the scope of Decree 80 comprise almost every type of renewable energy plant, though this extensive range applies primarily to the Private Wire DPPA mechanism.<sup>2</sup> In addition, there is no minimum capacity requirement for Private Wire DPPAs, which makes the Private Wire DPPA mechanism relatively accommodating. By contrast, only solar or wind plants with a capacity of 10MW or more, which are connected to the national power grid (the "**Grid**") and directly participate in the Vietnam Wholesale Electricity

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<sup>1</sup> These companies include the Northern Power Corporation, Southern Power Corporation, Central Power Corporation, Hanoi City Power Corporation, and Ho Chi Minh City Power Corporation.

<sup>2</sup> The types of renewable energy plants that can enter into a Private Wire DPPA include solar, wind, small hydropower, biomass, geothermal, ocean wave, tidal, and ocean current energy, as well as "other renewable energy and rooftop solar power systems that are granted electricity activity licenses or are exempt from licenses". The reference to rooftop solar power systems exempt from licenses indicates that C&I rooftop solar systems of less than 1MW will come within the ambit of the private wire mechanism. The reference to "small hydropower" indicates that mid-sized and large hydropower plants are not covered.

Market (“**VWEM**”), may be qualifying RE Gencos for a Grid Connected DPPA.

### Large Electricity Consumers

Decree 80 provides that the Buyer in a DPPA must be a Large Electricity Consumer, which means an entity with average electricity consumption of at least 200,000 kWh/month. If the entity has purchased electricity for less than 12 months or has not yet commenced electricity purchases (e.g., a factory that has not yet commenced, or recently commenced, operations), it must have projected electricity demand of at least 200,000 kWh/month. In addition, in the Grid Connected DPPA model, the Buyer must be connected to the Grid at a voltage level of 22 kV or more and the electricity purchased must be used for production<sup>3</sup>.

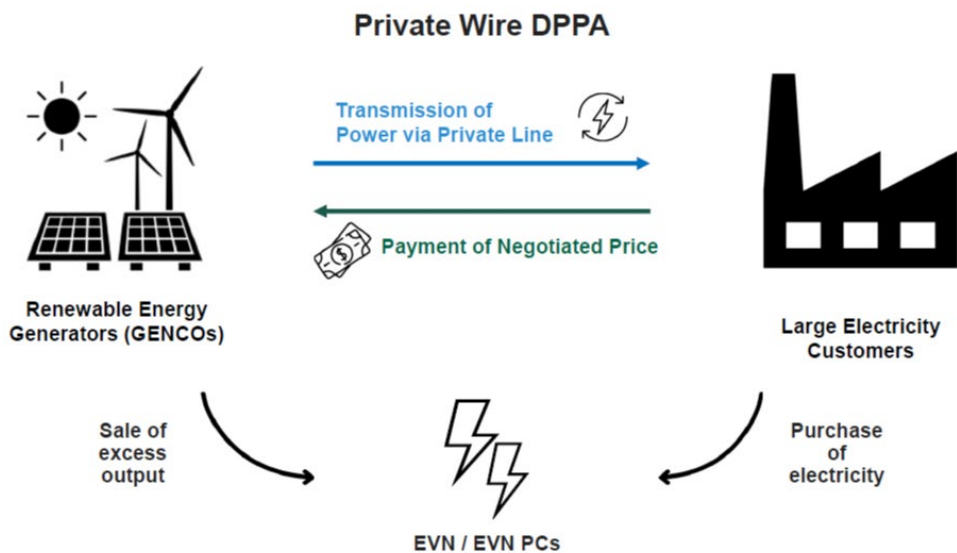
## 3. Two Distinct DPPA Mechanisms

Decree 80 sets out two distinct mechanisms for DPPA energy purchases. These are:

- Direct power purchases by private wire (“**Private Wire DPPA**”); and
- Grid connected (virtual) direct power purchases (“**Grid Connected DPPA**”).

### Private Wire DPPA

A Private Wire DPPA requires a physical connection, via a private transmission line, between a RE Genco and the Buyer, as shown in the diagram below:



The parties may agree on the terms and conditions of the PPA, as well as the electricity sale price, without restrictions (with one exception, where a RE Genco also retails electricity in industrial parks or similar zones

<sup>3</sup> The requirement for a Buyer to be engaged in production under a Grid Connected DPPA mechanism should be noted. The scope of this term will need to be tested and discussed with authorities to determine whether this includes matters like energy supply for data centres.

that use electricity purchased from the Grid, in which case the state-controlled electricity retail price will apply).

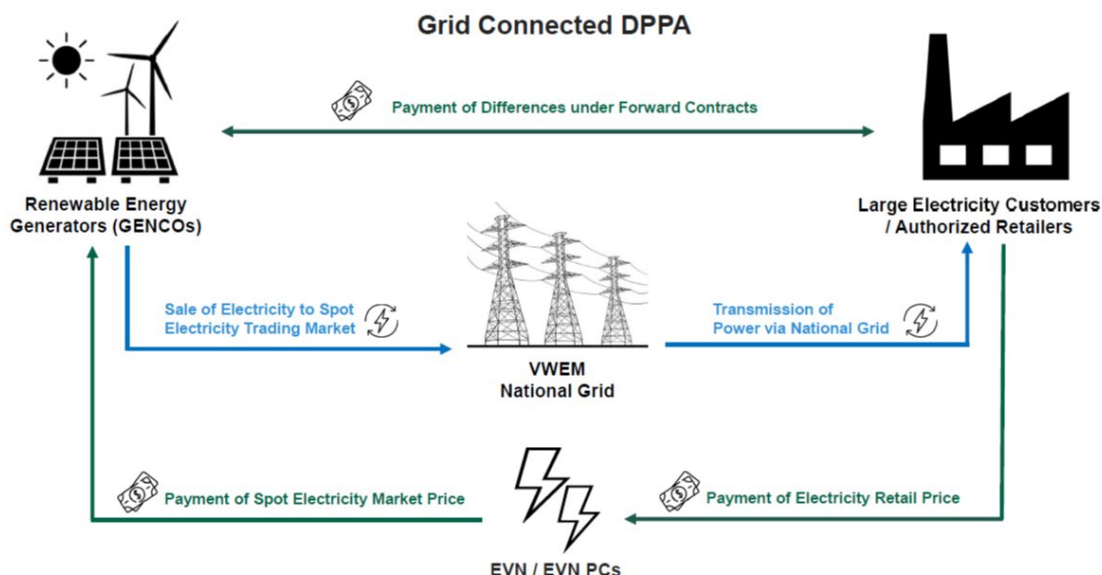
As a Private Wire DPPA does not principally rely on the Grid, no wheeling or other related changes will apply. However, we expect that, under this model, both the Seller and Buyer still will maintain a connection to the Grid, in the case of the Seller, to sell excess power during times of low demand by the Buyer and, in the case of the Buyer, to purchase electricity during times of low (or no) generation by the Seller. Decree 80 does not provide details as to how such sale and purchase of power from the Grid will be regulated – this will need to be clarified.

In addition, the RE Genco must be licensed to generate electricity (unless exempt – e.g., a qualifying rooftop solar system of 1MW or less) and will need to comply with other applicable regulations, including those relating to planning and safety. The extent to which a Private Wire DPPA model will be subject to the quota and capacity allocations applicable under Power Development Plan 8 and its implementing regulations is not entirely clear; this also will need to be clarified as projects are implemented or through subsequent implementing regulations.

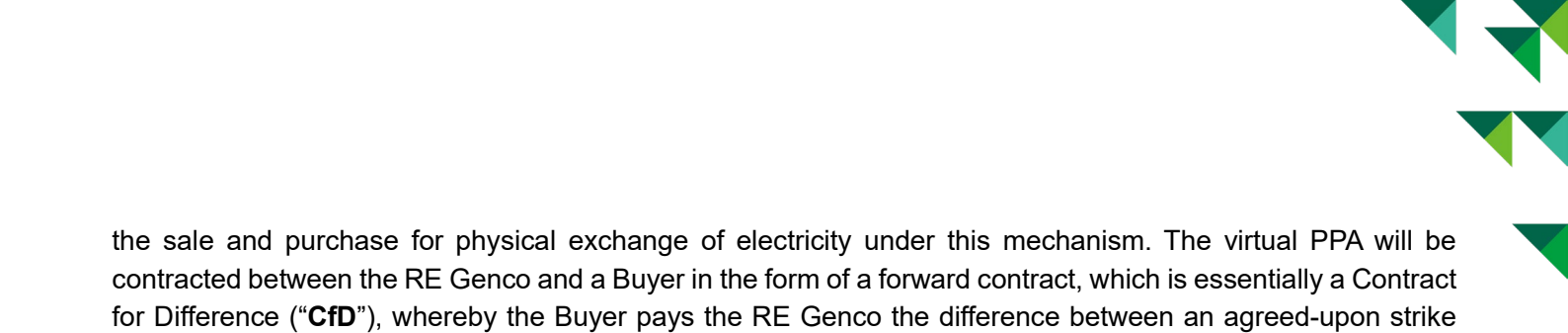
Except as noted above, it appears that Private Wire DPPA projects may be commenced without any need for specific prior approval from a regulator in order to proceed. Instead, execution of a Private Wire DPPA must be reported to the Ministry of Industry and Trade, the provincial-level people’s committee, the relevant EVN PCs and the National Load Dispatch Center (“**NLDC**”) within 10 days of execution of the PPA.

### Grid Connected DPPA

In a Grid Connected DPPA scenario, the RE Genco sells electricity into, and the Buyer purchases electricity from, the Grid, via EVN PCs. There is no transmission line connecting the RE Genco and the Buyer. This mechanism therefore constitutes a *virtual* or *synthetic* power purchase arrangement, as shown in the diagram below:



The RE Gencos must sell electricity on the VWEM spot market and will enter into an energy sale contract with EVN PCs. The Buyers, in turn, must sign electricity retail contracts with an EVN PC. These contracts govern



the sale and purchase for physical exchange of electricity under this mechanism. The virtual PPA will be contracted between the RE Genco and a Buyer in the form of a forward contract, which is essentially a Contract for Difference (“CfD”), whereby the Buyer pays the RE Genco the difference between an agreed-upon strike price and the spot market electricity price. Essential features of each type of contract are set out in Decree 80; in the case of the CfD, there appears to be scope for further negotiation and supplementation of the template, though the extent to which this will be permitted in practice remains unclear.

In contrast to the Private Wire DPPA mechanism, it is necessary to complete a registration process with NLDC, EVN and other relevant agencies before entering into a Grid Connected DPPA. Matters to be considered by the authorities during review of an application dossier include total renewable energy capacity allocations for the area, as well as the practicality of any required conversion arrangements (e.g., if any existing power sale arrangements will need to be altered or terminated).

#### 4. Conclusion and Next Steps

The launch of the DPPA mechanism through the issuance of Decree 80 is a positive development, and a major structural change, for the Vietnamese electricity sector. Manufacturers and other large energy consumers have been lobbying for such a mechanism to enable them to switch their energy consumption to greener sources of energy. This is an especially important consideration in Vietnam, which has a large manufacturing and export sector.

Decree 80 also should be welcomed as a potential reprieve for the pool of solar and wind plants (reportedly with a total capacity of around 4.5GW) that failed to qualify for the last feed-in tariff and which, as a consequence, either have been dormant or have been selling electricity at prices far lower than originally anticipated.

A notable feature of the Grid Connected DPPA model is the requirement that the RE Gencos sell into the VWEM spot market. It has been observed that a lack of private sector participation in the VWEM spot market has been one of the factors holding this market back from reaching its full potential; Decree 80 also should provide a much-needed boost to the efficacy and efficiency of this market.

The launch of the DPPA mechanism, together with the upcoming decree on self-consumption rooftop solar power and overhaul of the Law on Electricity, demonstrate the commitment of the Vietnamese government to significant policy initiatives to incentivise the transition to greener energy sources.

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