

Corporate PPAs in the energy markets

Context

The volatility of energy prices combined with ever-changing support for renewables are pushing industrial end-users and project developers, helped by lower costs of renewable technology, to look for a more stable outlook and more sustainable predictability in the long term as regards electricity supply.

A "corporate PPA" (for power purchase agreement) is a contractual energy supply agreement directly between a corporate industrial end-user and an energy producer. Generally we distinguish between the so-called "direct" and "virtual" corporate PPAs. In "direct" corporate PPAs electricity actually produced in the installation is supplied to the consumer, while in so-called "virtual" corporate PPAs electricity supplied to the industrial consumer does not necessarily come from the production installation. There are so many forms of (corporate) PPAs that this contractual mechanism can be compared to Lernaean Hydra, the multi-headed mythological being.

Current framework

Today there is no specific regulatory framework for the support or promotion of corporate PPAs at the level of European law. Given the different market conceptions at Member State level, many different contractual structures have developed under the name 'corporate PPA'. Currently, projects mostly involve purchase of electricity produced from renewable sources in order to facilitate the realization of initiatives of influential companies engaged in the increased use of this type of electricity.

In the United Kingdom and the Netherlands, for example, a producer can sell energy at the meter from the point of exit of the production installation to the final industrial customer even in the absence of a direct physical connection (using the intervention of a supplier who will also assume responsibility for balancing). In France and Germany, direct sale ('direct marketing') will be allowed under renewable energy support schemes such as the supplementary remuneration mechanism. Generally, the purchase and direct supply of electricity using the grid is not yet permitted. Network operators, energy suppliers and/or balancing parties often remain involved in these contractual structures to delineate respective roles and responsibilities. In many other EU Member States, only virtual Corporate PPAs would be authorised.

Finally, other regulatory conditions will have to be taken into account when drafting such contractual structures. For example, the fact that several companies in the same relevant market could be connected via this type of contract with a single renewable energy project could raise competition concerns.

Future tendencies

In the context of the current negotiations of the 'Fourth Energy Package', the proposal for a Directive on the promotion of the use of energy from renewable sources provides that (Article 15 .9) "*Member States shall remove administrative barriers to long-term power purchase agreements by companies to finance renewable energy and to facilitate its adoption.*" This seems auspicious for corporate PPAs.

However, practice will show whether administrative obstacles at Member State level will be targeted and how they will be addressed by the national authorities (and/or the European Commission). Will this result in a change in the principle of network and supplier usage? Will we evolve towards a generalized possibility of selling electricity on the meter of the producer? Towards opportunities for consumers to limit or even exclude certain network costs? Should regulations strive towards a more adequate stabilization of the system of guarantees of origin and their movement between Member States? The future will show it, but in the meantime it is advisable to remain vigilant: inconsiderate regulatory or contractual developments could 'cut a head' which, as for Lernaean Hydra, once cut could regenerate even more vigorously.

	Question	UK	NL	BE	DE	FR
Direct corporate PPAs		Y, but supply to final customer must still be done by a supply licence holder or by exemption	Y, but supply to final customer must still be done by a supply licence holder	N	N	N
	Are there direct/physical/sleeved corporate PPAs used on the market?	Y, Nestlé, BT,...	Y, Google-Eneco, Akzo consortium,...	N	N	N
	Is a passing of ownership at the meter point of production facility allowed?	Y	Y	N, only as from connection point of offtaker	N, only as from connection point of offtaker	N, only as from connection point of offtaker
Synthetic corporate PPAs	Is a synthetic corporate PPA allowed?	Y	Y	Y	Y	Y
	If so, does this work with a contract for difference system?	Y	Y	Y	Y	Y
	If so, are guarantees of origin usually involved?	Y (FIT/ROC)	Y, via CertiQ	Y, via VREG/CWaPE database	Y, via HKNR.de	Y, Powernext
	Are there synthetic corporate PPAs used on the market?	Y, M&S,...	Y	Not yet	Not yet	<i>Solvay&Orygeen Akuo Energy& Quant</i>
Direct marketing agreements	Is a direct marketing agreement allowed?	Y	Y	N/A	Y	Y
	If so, is this in the framework of a subsidy mechanism?	N/A	N/A	N/A	Y	Y, with <i>complément de rémunération</i>
	If so, to whom can the producer directly sell?	Aggregator, stock exchange, off taker	N/A	N/A	Aggregator, stock exchange, off taker	Aggregator, stock exchange, off taker