

The background of the slide is a composite image. The upper portion shows high-voltage power lines and transmission towers silhouetted against a bright, orange and yellow sunset sky. The lower portion shows a vast field of solar panels, with the sun's light reflecting off their surfaces, creating a grid-like pattern of light and shadow.

DPPA Decree

Legal Update | July 2024

On 3 July 2024, the Government has issued Decree No. 80/2024/ND-CP on the mechanism for direct power purchase agreements (**DPPA**) (**Decree 80**), after several delays from the scheduled issuance date in May 2024. Decree 80 takes effect from its issuance date, i.e. 3 July 2024. Since June 2019, there have been several drafts circulated for public consultation and discussion between Ministries and the relevant parties with various changes in both substance and form (which changed from being a Prime Minister's Decision to a Government Decree). This Legal Update seeks to present notable provisions under Decree 80 and its implications on the development of renewable energy in Vietnam. Decree 80 introduces two DPPA models which are (i) private transmission lines line/off-the-grid model (**Private Line Model**) and (ii) national grid connected model (**Grid Connected Model**). The notable provisions of each model will be explained below.

Private Line Model

Decree 80 does not impose any specific requirements on the Private Line Model. The Private Line Model allows the parties to agree on the electricity price without any specific restrictions as opposed to applying the regulated electricity retail price which was previously proposed in the draft of October 2023. There is no template power purchase agreement that the renewable energy companies (**GENCO**) and the large electricity consumers (**Consumers**) are required to use when participating in the Private Line Model. The Consumers are those with a consumption output of at least 200MWh/month.

Although there is no registration requirement applicable to the Private Line Model, the Consumer must report to the local People's Committee (copying both EVN and National Load Dispatch Centre) after the conclusion of a DPPA. In addition, the GENCO must obtain an Electricity Operating Licence unless it falls within the exemption of installed capacity for one system that is less than 1MW. It is clear from Decree 80 that Commercial & Industrial (**C&I**) rooftop solar energy developers can qualify for this Private Line Model.

Grid Connected Model

In contrast, the Grid Connected Model imposes more requirements on the participants as further explained below.

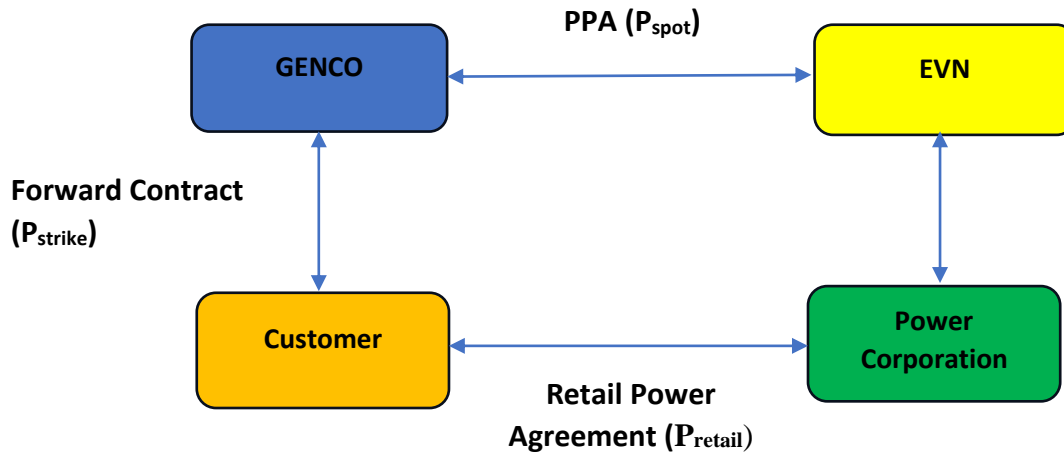
The eligible GENCOs wishing to participate in the Grid Connected Model are those with capacity of at least 10MW and having participated in the Vietnam Wholesale Electricity Market (**VWEM**). The eligible Consumers wishing to participate in the Grid Connected Model are those with (i) a connection voltage of at least 22kV and (ii) consumption output of at least 200MWh/month. This threshold is lower than the previous draft, which required a minimum consumption output of 500MWh/month. The eligible GENCOs and the eligible Consumers are required to register with the National Load Dispatch Centre for the participation of the Grid Connected Model, noting that it will theoretically take approximately 15 working days for this registration procedure.

Similar to the Private Line Model, the Grid Connected Model covers renewable energy which includes wind and solar, hydroelectric, biomass, tidal and geothermal projects and other renewable energy projects.

Decree 80 allows the parties to negotiate the relevant agreements with key provisions being set out in the relevant Schedules of Decree 80. In particular, for a power purchase agreement between GENCOs and EVN (**PPA**), the parties can negotiate its terms and conditions with the key provisions set out in Schedule 1 of Decree 80. The key provisions of (i) the power purchase agreement (**Retail Power Agreement**) between the Consumer (or an electricity retailer which is authorised by the Consumer(s) in industrial parks/clusters) and the relevant Power Corporation

(being a subsidiary of EVN) are set out in Schedule 2 of Decree 80 and (ii) the forward contract (**Forward Contract**) between GENCO and the Consumer are set out in Schedule 3 of Decree 80.

In terms of pricing under the Grid Connected Model, Decree 80 provides various formulae for different pricing mechanisms under each contract, some of which are unclear. Please refer to the following diagram for the summary of the pricing mechanisms under the Grid Connected Model.



1. With respect to the PPA, the amount to be received by the GENCO (P_{spot}) is formed by the spot market price through each transaction cycle (of which a transaction cycle is 30 minutes), with the calculation mechanism to be issued by the Ministry of Industry and Trade.
2. With respect to Forward Contract, the price (P_{strike}) will be agreed by GENCO and Customer to be compensated for any difference with the spot price. Decree 80 provides a formula to calculate the total revenue of the GENCO within a transaction cycle under the Forward Contract, noting that the formula will apply the following principle:
 - a. If $P_{strike} < P_{spot}$, then GENCO pays the difference between P_{strike} and P_{spot} to the Customer (i.e. the total revenue within a transaction cycle will be reduced by an amount equal to the difference between P_{strike} and P_{spot}).
 - b. If $P_{strike} > P_{spot}$, then Customer pays the difference between P_{strike} and P_{spot} to GENCO.
3. With respect to the Retail Power Agreement, there are two applicable scenarios:
 - a. If the amount of power generated by the GENCO is higher than the consumption amount of the Consumer, $P_{retail} = P_{spot} + \text{other costs such as transmission, distribution and other ancillary services}$.
 - b. If the amount of power generated by the GENCO is less than the consumption amount of the Consumer,
 - (i) with respect to the consumption amount, $P_{retail} = P_{spot} + \text{other costs such as transmission, distribution and other ancillary services}$.
 - (ii) with respect to the difference between the consumption amount and the generation amount, the retail price applicable to the Consumer (as opposed to the VWEM price) will be used.

Please feel free to contact us for further information on Decree 80 and its implications. We look forward to addressing any questions or concerns you may have about renewable power development in Vietnam.

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