

A new breed of power supply and purchase arrangement is emerging in the renewable energy sector, offering greater choice for generators and business consumers and allowing suppliers to provide their business customers with added flexibility

Traditional supply and private wire

Traditionally, electricity generated by renewable power projects has been sold directly to licensed suppliers who then trade on the wholesale market or supply to customers. Businesses wishing to purchase green electricity have been able to sign up to green tariffs. Such tariffs in some cases, offer no "guarantee of origin", no greater security of supply than traditional brown power tariffs and may be less competitively priced.

Although electricity supply, transmission and distribution activities are heavily regulated, for a number of years private wire arrangements and on-site generation has allowed smaller generators to supply local customers and users directly, on a licence exempt basis. While this may be a suitable arrangement in certain circumstances, it can severely limit the options of both generators and customers and, unless there is constant demand for the generating plant's output, the generator will require grid access anyway so that surplus power can be sold on.

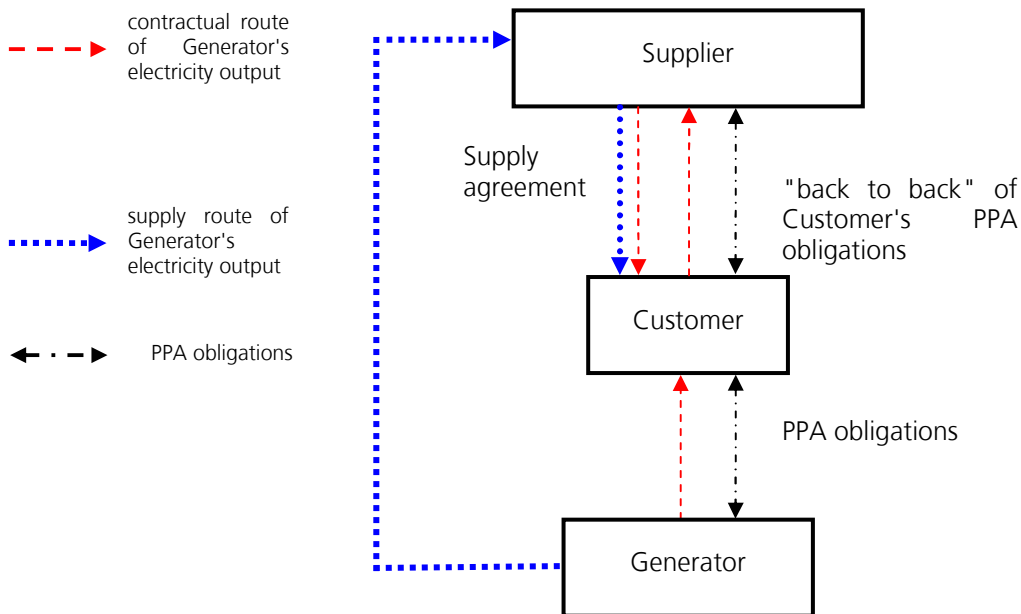
Direct power purchase agreements

Direct power purchase agreements ("Direct PPAs") can bring electricity consumers and generators together irrespective of location, generating capacity and supply requirement.

Instead of only buying electricity from its supplier, with a Direct PPA arrangement, the customer is able to contract directly with generators for part of its electricity requirement. The customer then on-sells the electricity (and renewable benefits) to its own supplier, who "credits" the customer's electricity account with the corresponding amount of electricity. The customer can also acquire from the generator the Levy Exemption Certificates (LECs) associated with any renewable electricity generated, thus avoiding climate change levy payments on the directly purchased electricity supply.

As the Generator is not supplying the customer directly (as with a private wire) the customer still needs an electricity supply agreement and this agreement will have to be compatible with a Direct PPA structure, allowing the on-selling and crediting arrangements described above.

Example of a Direct PPA structure



Disclaimer: This briefing is not intended to be a complete coverage of the law in this area. Legal advice should always be taken in any particular case.

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A Direct PPA compatible supply agreement can be more complicated to put in place than standard electricity supply arrangements and it is likely that the customer will need to have a sizeable supply requirement for this to be an attractive proposition for both the customer and its supplier. As such it will not be suitable for all business customers. However, for a public or private sector organisation with significant electricity usage and who can benefit from an identifiable (renewable) energy supply, this kind of structure can provide considerable benefit and help spread the risks associated with fluctuations in electricity prices.

A number of major suppliers are currently providing Direct PPA compatible supply arrangements and we understand that more are coming to the market to take advantage of the growing interest in this kind of electricity purchasing. This is good news for generators and business customers as it should make it easier to put such arrangements in place and may reduce the tipping point at which such arrangements become viable.

The advantages of the Direct PPA to customers and generator are:

- the supplier takes the supply risk - the customer's lights will not go out if the generator suffers an outage
- generators and customers have a significantly wider market available to them for the sale and purchase of electricity
- the customer is able to spread its exposure to pricing fluctuations by agreeing a fixed or floating price mechanism with the generator. This can complement the pricing arrangements under its general electricity supply agreement
- the Direct PPA structure enables the customer to demonstrate a commitment to renewable energy by identifying specific products and services that are powered by renewable energy from a specific generating facility.

Direct PPAs for the Public Sector?

There is growing support and interest for this kind of arrangement in the private sector. Government has also indicated its support for Direct PPAs in the UK Renewable Energy Strategy 2009 by stating that it expects to commence a tender process for Direct PPAs to provide a percentage of the electricity volumes consumed by the public sector later this year, with the first Direct PPAs to be in place by Summer 2010. As the public sector as a whole consumes more than 6% of total electricity in the UK, this represents a real opportunity for both generators and suppliers.

Burges Salmon has advised on a number of Direct PPA deals, using the structure illustrated above and others and has acted for both generators and customers. Whether you are in the public or private sector, generator, customer or supplier, if you would like to discuss how a Direct PPA structure could benefit your organisation, please contact:



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