

Your sustainable energy strategy

Responding to the challenges of the energy crisis – taking back control

Grow | Protect | Operate | Finance

Corporates are currently facing unprecedented short- and medium-term cost challenges to secure the energy they need to operate their businesses. This "crisis" sits within a continuing drive to achieve sustainability goals:



SHORT TERM: ENERGY CRISIS

Spike in gas prices triggered by demand outstripping supply and exacerbated by the conflict in Ukraine. Wholesale gas prices are 12 times higher than they were at the start of 2021.

The knock-on effect is an equivalent increase in wholesale electricity prices, due to market structures, particularly in Europe.



LONG TERM: ENERGY TRANSITION

The energy crisis is set against the backdrop of energy transition. Nations and corporations alike are committing to ambitious net zero emissions and sustainability targets and seeking to decarbonise their energy use.

Rising ESG stakeholder/consumer scrutiny will hold them to their promises.

The interface of these challenges calls for a focus on energy procurement strategy in your organisation. In the short term, energy pricing as a key input into operational costs is acute. Your solutions can include:



Renewable energy tariffs and flexible contracts with your licensed supplier, wholesale market hedging strategies, rooftop and behind-the-meter generation solutions, corporate power purchase agreements, REGO purchasing and energy efficiency measures.

A clear long-term, risk-assessed strategy will bring considerable benefits to your organisation:



PRICE CERTAINTY

Direct contracting reduces exposure to fluctuating wholesale market prices and provides a hedge against the risk of energy price increasing.

A clear long-term strategy underpins energy price/operational cost certainty.



NET ZERO: SCOPE 2

The reduction of energy use from the grid, combined with direct renewable energy contracting under corporate PPAs and REGO offsets, will enable a corporation to achieve net zero in relation to its Scope 2 emissions (CDP).

Note: the concept of "additionality" of renewable generation.



COST SAVINGS

Reduced market exposure will decrease exposure to acute energy costs, but short-term cost savings must be carefully balanced against longer-term projections.

A long-term strategy that provides best cost, in aggregate, over a mid- to longer-term horizon is the goal.

You need practical legal advice from energy sector specialists to develop new energy strategies to help protect your business from electricity market volatility without compromising your sustainability goals.

If energy security/procurement is not your organisation's number one priority for 2023/24, it should be!

The Dentons Energy team is here to help in the UK and across the globe.

Physical licensed supply – renewable and flexible tariffs, wholesale market hedging

In response to the extreme market pricing, companies' purchasing arrangements with their licensed supplier (for gas and electricity) are coming under significant scrutiny. Procurement teams are reporting directly to the board, who need to balance budgets and set strategy for next year and beyond.

We can assist you in unpicking the complex terms that suppliers present and identifying the key legal and commercial risks in the proposed contracts. We can also assist in identifying any flexibility/options available in existing contracts, such as green tariffs, fixed price tranches, sleeving options and REGOs. We also advise on wholesale market hedging contracts and associated documentation.

Licensed supply is the route via which businesses are receiving Energy Bill Relief Scheme support – we have been advising businesses on the nature of that support and the options available, and we will in due course advise our clients on what (if anything) will replace it come April 2023 and the wider energy market reforms that will follow.

Corporate Power Purchase Agreements

Corporate PPAs are arrangements by which corporates purchase renewable electricity directly from the generator, rather than being a slave to the energy-mix of the wholesale electricity market. This provides the corporate buyer with long-term certainty of its electricity costs and supports the "additionality" of new renewable generation to the grid. It also provides greater security of supply (if physical) and long-term price certainty (physical or virtual).

The purchase of associated REGOs enables the corporate buyer to achieve its commitment to achieve "*net zero in relation to its Scope 2 emissions*" and/or "*100% renewable electricity*" as applicable.

Corporate PPAs can take a number of different contractual forms, including physical, synthetic and sleeved PPAs. We advise on the pros and cons of these options and the interface with your existing supply arrangements. We commonly introduce our clients to, and work closely with, market advisers and assist our clients in their market-sounding and corporate PPA procurement processes.

Experience highlights

HMG: Advising the UK government on the Energy Prices Act 2022 and on its responses to the energy crisis.

Sainsbury's: Advising on the purchase of grid-delivered power from a series of renewables projects, on a utility sleeved basis, and the wholesale purchase of power for the UK business at multiple offtake points. These were the first independent power projects of their kind in Great Britain. They were ground-breaking projects as they involved a corporate buyer buying power directly from a generator rather than an electricity supplier. We also advised Sainsbury's on complex and innovative flexible electricity supply arrangements with its licensed electricity supplier.

Various retailers including Sports Direct, John Lewis/Waitrose, Marks & Spencer, Decathlon: Advising, drafting and negotiating corporate PPAs, CfDs and electricity supply/offtake arrangements from grid and renewables sources, including solar, wind and combined heat and power.

Lightsource bp: Advising on all aspects (including power purchase arrangements) of its 5MW rooftop solar installation fixed to the roof of Bentley's factory in Crewe. This pioneering installation made use of 3.45 ha. of roof space and included more than 20,000 panels.

On-site/private wire renewable energy supply

The installation of rooftop and on-site renewable generation on the corporate buyer's site or in a location where it can be connected to the buyer's premises via private wires (or "behind-the-meter") can bring substantial economic gains to any energy-intensive business, e.g. by reducing reliance on the traditional power supplies, reducing volume exposure to wholesale markets, bypassing transmission/distribution fees and hedging against fluctuating energy prices.

Like a corporate PPA, on-site and private wire PPAs provide long-term electricity supply at a fixed and certain price. Excess supply can be on-sold to the wholesale market and these arrangements need to be dovetailed with existing supply and connection arrangements.

We advise on all stages of renewable projects, including:

- analyses of current market structures, including subsidies, auctions, and merchant plant;
- the development phase of a renewables project, including matters of consenting, land rights, grid connection, construction and operations; and
- project financing, including financing models, PPAs and other revenue streams.

Guarantee of origin purchasing (and trading)

Renewable Energy Guarantees of Origin (REGOs) are electronic certificates issued to generators of renewable electricity (or their agent) under the UK's Renewable Energy Guarantees of Origin Scheme. (There is an equivalent pan-European scheme for guarantees of origin (GOs) in Europe.)

One REGO certificate is issued per megawatt hour of eligible renewable output to the accredited generator of that output. REGOs contain information on the source as well as the dates and places of production of the relevant certificated energy.

The purpose of REGOs is to prove to a final consumer that a given share of energy was produced from renewable sources. Under a corporate PPA, the REGOs associated with the renewable generation are purchased by the corporate buyer and used to offset against the emissions embedded in the corporate's physical energy supplies. Excess REGOs can also be traded on the "secondary" market.

Conclusion

Depending on the geographic footprint and nature of the business and its physical assets, a strategic combination of physical licensed supply, potential wholesale market hedging, on-site/private wire generation, corporate PPAs and direct REGO/GO purchasing is likely to be required to: (i) best weather short-term price volatility and increase price certainty; (ii) optimise longer-term energy supply, efficiencies and pricing; and (iii) achieve sustainability objectives.

Experience highlights

We advise on green certificates, ETS and voluntary carbon market law, transactions, secured financings and trading across multiple jurisdictions.

Our experience includes:

cPPA clients: Advising on the REGO/GO purchase and transfer arrangements (including cross-border exports) in multiple cPPA processes.

UK retailer: Advising on the negotiation of a renewable energy certificate purchase agreement across the UK, Netherlands, Poland, Germany and Austria.

Aera S.A.S.: Advising on a template emissions reduction purchase agreement for trading of international VCS carbon credits.

Barclays: Advising on its obligations under the Carbon Reduction Commitment (CRC) in relation to a data centre site with combustion facilities which are subject to the EU ETS, and the extent to which such sites benefit from exemptions from CRC.

Nature-based solutions: We have advised on multiple nature-based, carbon removal, carbon avoidance and REDD projects and the accreditation for, and purchase of, associated carbon credits under direct equity investment, framework and ERPA/SERPA arrangements.

Key contacts

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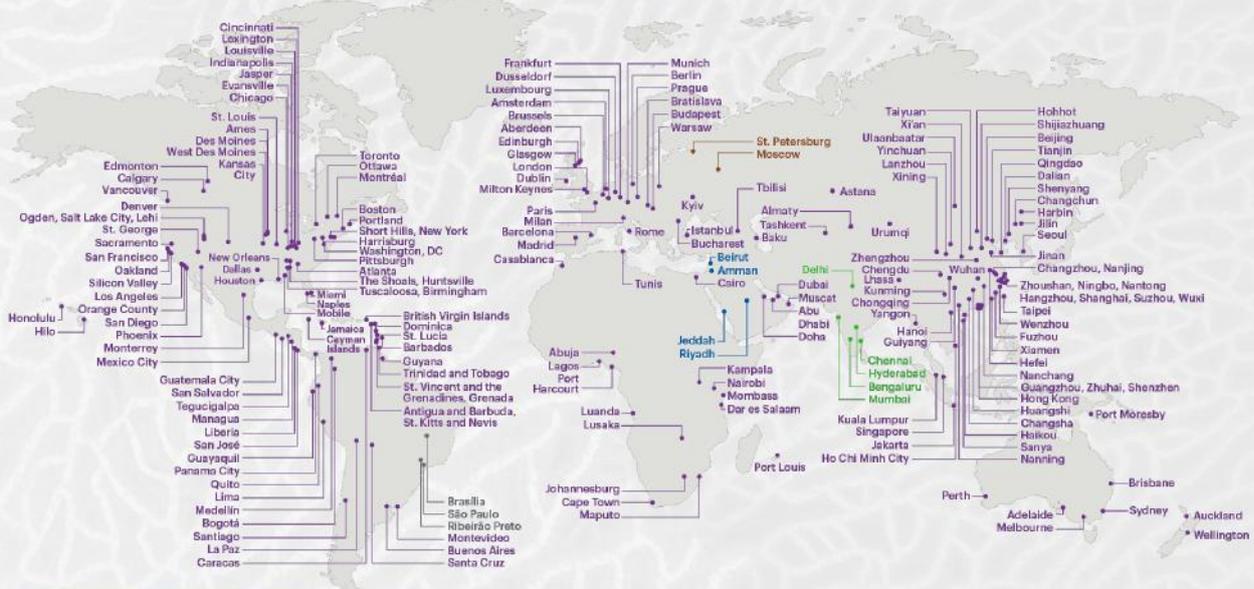
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