AmCham EU
SPEAKING FOR AMERICAN BUSINESS IN EUROPE

Our position

Corporate power purchasing of renewable energy and the Clean Energy Package

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €2 trillion in 2016, directly supports more than 4.5 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

American Chamber of Commerce to the European Union
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Executive summary

Corporate procurement of renewable energy is making a sizeable contribution to energy and climate objectives. In the EU, this business model has yet to live up to its potential compared to other regions of the world, particularly the US, where corporate procurement of renewable energy represents over 8GW.

In order to attract suitable investments, renewable energy projects require high levels of certainty about future power revenues. The Clean Energy Package seeks to change the model for renewable projects after 2020. However, it does not address the hurdles to long term energy contracts which would allow corporate demand for renewable energy to thrive, based on clear and predictable price signals.

Introduction

The Clean Energy for All Europeans Package aims to drive EU energy markets towards an affordable, reliable and clean future. The American Chamber of Commerce to the EU (AmCham EU) shares this ambitious vision for Europe. While the Package addresses a wide-range of important issues, it is notably silent on establishing a policy framework to facilitate corporate access to clean energy, particularly with regards to direct corporate purchases of renewable energy.

This is unfortunate, as both European industry and consumers greatly profit from corporate investments in clean energy. AmCham EU members – especially those who would like to transpose their successful renewables procurement practices from the United States to other jurisdictions of the world would like to see the Clean Energy Package go further to help meet their demand for increasingly cost competitive sources of renewable energy. This will reinforce the strong investment signals for clean energy, while further positioning private industry consumers to support Europe's energy goals.

In this paper, AmCham EU provides recommendations on how the Package can offer a policy framework capable of enabling more direct corporate involvement in building Europe's clean energy economy. We welcome further dialogue on these issues.

Corporate demand for renewable energy

Corporate renewable energy purchasing has brought billions of euros of investment and innovation in business model development throughout the world, as well as furthered ongoing deployment of advanced technologies. Corporate purchases of renewable energy have often helped state and local governments achieve clean energy targets faster, at much lower costs to the public.

Enabling corporate consumers to easily access clean energy technologies and purchase renewable energy will enhance Europe's ability to meet both renewable energy and decarbonisation objectives.

The business ecosystem around renewable energy development in the EU has differed considerably from the US experience. Renewable energy development in the EU remains strongly tied to government programs like feed-in tariffs (FiT). By nature, FiT strive to provide investment certainty for renewable energy development by positioning the public as the obligated purchaser of the associated generation; as such, the established FiT €/MWh has immense influence over the cost, demand and supply of renewable energy in the market.

Yet, as many European countries have witnessed, notably Germany and Spain, FiTs are better for kick-starting innovation and deployment in renewable energy than driving market transformation. Accordingly, renewable energy policy in many countries has shifted from FiTs to auction-based procurement models, where market forces can play a stronger role in determining costs, location, and importantly, the end-purchaser of renewable energy.

Over 8 GW of corporate renewables have come online in the United States[1], compared to only 2GW[2] in the EU. As suggested above, this is due to obstacles both inherent to and caused by remaining fragmentation within the EU energy market, such as:

- A lack of cross member state interconnections;
- Unclear or inconsistent crediting mechanisms for Guarantees of Origin (GOs) across Member States,
- Colliding, often duplicative, public and private mechanisms for promoting renewable energy deployment. In particular, FiTs and obstructive rules around GOs have limited competition in the market for renewable energy, limiting the cost-effective options available to corporations seeking to purchase renewable energy.

Taken collectively, the obstacles above continue to constrain corporate efforts to purchase 'additional' credited green energy from renewable resources.

In comparison, the US has seen a dramatic expansion in corporate purchasing of renewable energy, in part due to the longstanding success of 'Power Purchase Agreements'[3] (PPAs). PPAs allow for companies to procure renewable energy through a legal-tested, familiar contract structure. In addition, the US process for crediting renewable energy generation with Renewable Energy Certificates (RECs), although open to criticism, is more straightforward and consistent than the GO system in the EU which is fragmented and needs more transparency.

PPAs and their associated RECs have allowed US corporations to reliably access and receive credit for purchasing renewable energy. In addition, the US Federal and State[4] governments have played a

[1] http://businessrenewables.org/corporate-transactions/

[2] https://windeurope.org/wp-content/uploads/files/policy/position-papers/WindEurope-Long-Term-Investment-Signals.pdf

[3] A Power Purchase Agreement is a financial agreement where an electricity generator sells power generated from a given installation to a customer (or 'off taker') at a fixed rate that is typically lower than the local utility's retail rate. This lower electricity price serves to offset the customer's purchase of electricity from the grid while the developer/generator receives the income from these sales of electricity as well as any tax credits and other incentives generated from the system. PPAs typically range from 10 to 25 years and the developer/generator remains responsible for the operation and maintenance of the system for the duration of the agreement.

[4] Approximately 30 US states have Renewable Portfolio Standards (RPS), which often require state-regulated electric utilities to purchase renewable energy to match a determined quantity of annual retail electricity sales.

critical role in promoting clean energy and framing private industry engagement. Federal US energy policy has maintained tax-based support for solar, wind, and other clean energy technologies[5], while the generation of clean energy is supported at some state level in an effective and dynamic fashion, often through competitive mechanisms.

In most cases, these forms of government support have lowered the effective cost of developing and operating renewable energy projects, but, importantly, have not prevented or frustrated corporate efforts to purchase the power output from renewable energy projects. In fact, corporate renewable energy purchasing has emerged as an important complement to public procurement goals.

What the corporate sourcing of renewable energy business model entails

Renewable energy projects are by nature capital intensive, and sell electricity into markets with high levels of price uncertainty and volatility. In order to attract suitable investments, most renewable energy projects require high levels of certainty about future power revenues. PPAs and other contracted offtake structures can help minimise risks associated with energy price volatility and security of supply, and as such, are often attractive business models for corporate engagement. For renewable project developers, PPAs or other partnerships with large energy consumers are an attractive way to limit offtake risks in power markets.

Historically, EU Member States have addressed the risks associated with power price volatility through government guarantees, such as FiTs, and by granting renewable sources priority, must-take access to the EU energy grid. While FiT spurred incredible growth of the renewable energy industry, in many cases these instruments do not allow for corporations to consistently purchase credited generation from renewables. FiTs limit competition in the market for clean energy, and have in some cases, led to windfall returns for project developers, at the expense of more effective public support for sustainable energy. The Clean Energy Package seeks to change this model for renewable projects after 2020, recognising that the industry continues to mature beyond the programs employed to jump-start it. However, the package does not address the hurdles to long term energy contracts which would allow corporate demand for renewable energy to thrive, based on clear and predictable price signals.

Removing regulatory obstacles

Historically, PPAs have not been needed in Europe because FiTs and priority grid access has provided renewable energy projects with the revenue certainty required for financing and optimal operations. The recast of the Renewable Energy Directive (RED 2) proposal recognises that large scale renewable projects need to move beyond this model. As such, the timing is now perfect to position PPAs and like contracting structures as important tools to provide the long-term price signals which both renewable generators and energy users need to open up a new market, and bring a new set of consumers to renewable electricity.

[5] Via the Investment Tax Credit (ITC), and the Production Tax Credit (PTC)

For more corporations to participate in the renewable energy market, a number of supporting elements need to be addressed, in addition to PPAs themselves. One is expanding access to Guarantees of Origin, while ensuring these are issued transparently and in a harmonised manner across Europe.

Although certain EU Member States have somewhat embraced corporate purchasing of renewable energy (e.g. Scandinavian countries, Netherlands, UK), in many others obstacles remain. Those obstacles (1) hinder the economic case for corporate procurement of renewables, (2) limit access to GO which are essential for corporate reporting, and (3) specifically block the ability for corporations to pursue PPAs or like contracting structures to purchase renewable energy.

The following bullets highlight such obstacles in greater depth:

Inability to procure at a distance:

- Lack of interconnection and market coupling in the EU combined with the inability for corporates to book transmission capacity between two countries limits cross-border PPAs.
- The overemphasis on onsite projects and self-consumption in many member states' legislation. Although suited to some small scale corporate procurement projects, this approach is not adapted to large electricity off takers.

Obscuring price signals:

- Unnaturally low wholesale electricity prices in the EU, which means renewable electricity is less attractive than it is in other regions of the world.
- Trade measures and price controls which are keeping the price of some renewable technologies artificially high.
- Inefficiencies dues to lacking regulatory framework: for ex, insufficient demand response mechanisms on the EU energy market, which does not incentivise the use of renewable energy in practice.
- Lacking infrastructure, storage, balancing mechanisms to truly integrate intermittent renewable energy in the EU grid.

Administrative/regulatory obstacles:

- Definitions of what is 'onsite' or 'near site' generation. Uncertainty can delay the building of new renewables projects for years in many EU Member States today.
- Unreasonably long delays in permitting process in many Member States, particularly related to interconnection agreements.
- Administrative obstacles to PPA agreements where multiple off takers agree to consume the energy of a new projects together (thereby limiting the risk one of them will default and improving the economics of the project.) This is especially penalising for smaller corporate consumer like SMEs for whom it is harder to access financing alone.
- Regulatory uncertainty over a purchaser's long-term rights to GOs.
- GOs are currently not adapted to the needs of corporates who wish the renewable energy they procure to be 'additional' and therefore be linked to new, not existing, renewable infrastructure.

Conclusion

Corporate purchasing of renewable energy is key for the EU to meet its 2030 and 2050 climate objectives. Progress towards addressing the regulatory obstacles which currently limit the attractiveness and role of PPAs should be reported on in the 10-year plans mandated by the draft Governance Regulation under the Clean Energy Package.

There is also significant uncertainty about EU competition law and how it would apply to decade long energy procurement contracts. We encourage the European Commission and EU regulators to think broadly about the implications the upcoming state aid guidelines may have on the contributions the PPA business model could have in reaching EU climate objectives.

As US companies, we have seen PPA contracts be a tool which can empower customers and broaden their choice of energy supply. We hope the Clean Energy Package, when it enters into law, will enable the market signals which will help corporate demand for renewable energy contribute to a growing supply of affordable European renewable energy.

Concrete reflections for the legislative negotiations

The 'Clean Energy for All' package can help take corporate procurement of renewables in the EU to the next level.

Power Purchasing Agreements (Article 15(9) RED 2)

Power Purchasing agreements are notably absent from the winter package, with only one brief mention in Article 15(9) of the draft Renewable Energy Directive (RED 2): '*Member States shall remove administrative barriers to corporate long-term power purchase agreements to finance renewables and facilitate their uptake.*'

We do not believe this is enough to allow this business model to deliver the clean energy needed to meet Europe's decarbonisation objectives. PPAs are not readily and easily available to corporates across Member States. Physical PPAs are more broadly available than financial PPAs. Physical PPAs often present requirements that may limit corporate engagement. A broader access to financial PPAs would be attractive to corporates and increase the flexibility and liquidity of the energy market.

Recommendations for the legislative negotiation

- At a minimum, we believe this reference in the RED 2 proposal, should be linked to reporting requirements in the Governance regulation.
- EU regulators should be more specific and prescriptive about what these administrative barriers are, and how to demonstrate progress in removing them.

Guarantees of Origin (Article 19 RED 2)

Guarantees of origin, are the certificates which are traded to prove that the energy needs of corporate actors or local authorities have been met with renewables sources. They are addressed in article 19 of the draft RED2 proposal, but the wording of the draft proposal shows a misunderstanding of the business model behind these certificates for corporate actors.

The Commission proposes to prevent double subsidies, by allowing only renewable energy which has not been subsidised to be eligible for GO trading. Although in principle AmCham EU understands this motivation, it raises a number of question about potential retroactive changes in projects which are already in place. In the meantime, a number of our members are refraining from entering into new projects as they do not know how they will be treated in the future. The proposal as laid out in article 19 is also unclear and difficult to implement without distortions. AmCham EU fears, it would, for example, no longer be possible to link the renewable energy production of a specific facility to corporates who are interested in that specific renewable energy facility.

We believe there are other ways to address concerns over double compensation. In case financial support is granted via competitive tenders or certificate systems, there is no risk of double compensation since renewable energy producers include the value of GOs in their bids, lowering their bidding price and the subsequent support payments. In the case of FiT, the value of GOs can be deducted (e.g. a reference value of GOs from the reference FiT) to avoid double compensation.

Article 19 of RED 2 also raises concern as we fear it may further limit access to GOs. As currently drafted, RED 2 actually introduces further regulatory uncertainty and in so doing introduces additional barriers to corporate customers seeking to support the development of additional renewable energy projects.

Certificates, whether Renewable Energy Credit as in the US or Guarantees of Origin in Europe, have become the internationally accepted means of providing transparency and a simple and verifiable audit path for corporate energy reporting. Access to GOs is critical for corporates as it enables them to make solid claims. Corporates report their carbon emissions and carbon offsets. Owning GOs is an easy way to have strong claims. In today's European market, several member States do not emit GOs for projects benefiting from support schemes. This has led to GOs being imported from other energy sources and other countries, which contradicts the local dimension and the additionality value many corporates value, and some even find imperative, Enabling competitive access to GOs and transparency on the GOs provenance would increase corporates' renewable energy purchase.

Guarantees of Origin also provide corporations and other consumers with flexibility: for example to support renewable energy for a facility where it may not be directly responsible for the energy supply as in a leased space or multi-tenant building, or in case a corporate actor with a 100% renewables pledge, must all of sudden consume more energy than planned because of an unexpected rise in demand.

The GO article so far reflects the Commission's worry about possible fraud among member states in the emission of certificates, but is inadequate to ensure GOs are fit for purpose for corporate actors. Fraud (whether financial or reporting) can be mitigated with robust tracking systems for GOs that ensure certificates are traced from when renewable energy was delivered to the grid until the point the certificate is retired.

Recommendations for the legislative negotiations

- Protect existing projects from retroactive changes, where they would either lose GOs or revenue from FiTs, as is currently the case in Mr Blanco Lopez' parliamentary report
- Ensure greater transparency and harmonisation in how these GOs are issued throughout Europe to prevent double counting
- GOs have a reporting value in addition to a value in themselves. Proposals to start trading them in a manner that would undercut their role of tracking "additionality" of renewable purchases should be resisted, as they would likely be overly complex, and ineffective.
- After 2020 GOs should be available for all new renewable projects awarded via auction (not feed in tariffs); or when the value of the GOs has been subtracted from the subsidies received via FiT.