

FEBRUARY 2026

VOL. 26-2

PRATT'S

ENERGY LAW

REPORT



LexisNexis

EDITOR'S NOTE: LDES, PART II

Victoria Prussen Spears

**LONG DURATION ENERGY STORAGE:
OPPORTUNITIES, CHALLENGES AND
SOLUTIONS - PART II**

Harry K. Brunt

**NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION PROPOSES OVERHAUL OF
FUEL ECONOMY STANDARDS: SAFE RULE III
FOR MODEL YEARS 2022 TO 2031 PASSENGER
CARS AND LIGHT TRUCKS**

Stacie B. Fletcher, Rachel Levick,
Veronica J.T. Goodson and Laura Stanley

**ENERGY-FIRST STRATEGIES FOR DATA CENTER
REAL ESTATE DEVELOPMENT**

Julianne Prisco

**THAILAND'S DRAFT REGULATION ON DIRECT
POWER PURCHASE AGREEMENTS VIA THIRD
PARTY ACCESS FOR DATA CENTERS**

Chumbhot Plangtrakul, Thaphanut Vimolkej,
Ronnarit Ariyapattanapanich,
Jidapa Songthammanuphap, and Joseph Willan

**SUSTAINABLE AVIATION FUEL IN BRAZIL:
MARKET OPPORTUNITIES FOR INVESTORS,
SPONSORS AND OFFTAKERS**

Patrick Jackson, Fabricio Longhin,
Jessica Springsteen, Phil Walsh, Alejandro Leon,
Douglas Mulliken and Philine Zambon

Pratt's Energy Law Report

VOLUME 26

NUMBER 2

February 2026

Editor's Note: LDES, Part II

Victoria Prussen Spears

41

Long Duration Energy Storage: Opportunities, Challenges and Solutions – Part II

Harry K. Brunt

43

National Highway Traffic Safety Administration Proposes Overhaul of Fuel Economy Standards: SAFE Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks

Stacie B. Fletcher, Rachel Levick, Veronica J.T. Goodson and
Laura Stanley

55

Energy-First Strategies for Data Center Real Estate Development

Julianne Prisco

61

Thailand's Draft Regulation on Direct Power Purchase Agreements via Third Party Access for Data Centers

Chumbhot Plangtrakul, Thaphanut Vimolkej,
Ronnarit Ariyapattanapanich, Jidapa Songthammanuphap,
and Joseph Willan

69

Sustainable Aviation Fuel in Brazil: Market Opportunities for Investors, Sponsors and Offtakers

Patrick Jackson, Fabricio Longhin, Jessica Springsteen, Phil Walsh,
Alejandro Leon, Douglas Mulliken and Philine Zambon

74

QUESTIONS ABOUT THIS PUBLICATION?

For questions about the **Editorial Content** appearing in these volumes or reprint permission, please call or email:

Raeesa Hoosen, LLB. at (1908) 673-3323

Email: raeesa.hoosen@lexisnexis.co.za

For assistance with replacement pages, shipments, billing or other customer service matters, please call:

Customer Services Department at (800) 833-9844

Outside the United States and Canada, please call (518) 487-3385

Fax Number (800) 828-8341

LexisNexis® Support Center <https://supportcenter.lexisnexis.com/app/home/>

For information on other Matthew Bender publications, please call

Your account manager or (800) 223-1940

Outside the United States and Canada, please call (518) 487-3385

ISBN: 978-1-6328-0836-3 (print)

ISBN: 978-1-6328-0837-0 (ebook)

ISSN: 2374-3395 (print)

ISSN: 2374-3409 (online)

Cite this publication as:

[author name], [*article title*], [vol. no.] PRATT’S ENERGY LAW REPORT [page number] (LexisNexis A.S. Pratt);

Ian Coles, *Rare Earth Elements: Deep Sea Mining and the Law of the Sea*, 14 PRATT’S ENERGY LAW REPORT 4 (LexisNexis A.S. Pratt)

This publication is designed to provide authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

LexisNexis and the Knowledge Burst logo are registered trademarks of RELX Inc. Matthew Bender, the Matthew Bender Flame Design, and A.S. Pratt are registered trademarks of Matthew Bender Properties Inc.

Copyright © 2026 Matthew Bender & Company, Inc., a member of LexisNexis. All Rights Reserved.

No copyright is claimed by LexisNexis or Matthew Bender & Company, Inc., in the text of statutes, regulations, and excerpts from court opinions quoted within this work. Permission to copy material may be licensed for a fee from the Copyright Clearance Center, 222 Rosewood Drive, Danvers, Mass. 01923, telephone (978) 750-8400.

Editorial Office
521 Fifth Ave., 7th Floor, New York, NY 10175 (800) 543-6862
www.lexisnexis.com

MATTHEW  BENDER

Editor-in-Chief, Editor & Board of Editors

EDITOR-IN-CHIEF

STEVEN A. MEYEROWITZ

President, Meyerowitz Communications Inc.

EDITOR

VICTORIA PRUSSEN SPEARS

Senior Vice President, Meyerowitz Communications Inc.

BOARD OF EDITORS

SAMUEL B. BOXERMAN

Partner, Sidley Austin LLP

ANDREW CALDER

Partner, Kirkland & Ellis LLP

JOHN C. CROSSLEY

Partner, K&L Gates LLP

M. SETH GINTHER

Partner, Hirschler Fleischer, P.C.

STEPHEN J. HUMES

Partner, Holland & Knight LLP

R. TODD JOHNSON

Partner, Jones Day

BARCLAY NICHOLSON

Partner, Norton Rose Fulbright

ELAINE M. WALSH

Partner, Baker Botts L.L.P.

SEAN T. WHEELER

Partner, Kirkland & Ellis LLP

Hydraulic Fracturing Developments

ERIC ROTHENBERG

Partner, O'Melveny & Myers LLP

Pratt's Energy Law Report is published 10 times a year by Matthew Bender & Company, Inc. Copyright © 2026 Matthew Bender & Company, Inc., a member of LexisNexis. All Rights Reserved. No part of this journal may be reproduced in any form—by microfilm, xerography, or otherwise—or incorporated into any information retrieval system without the written permission of the copyright owner. For customer support, please contact LexisNexis Matthew Bender, 9443 Springboro Pike, Miamisburg, OH 45342 or call Customer Support at 1-800-833-9844. Direct any editorial inquiries and send any material for publication to Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc., 26910 Grand Central Parkway Suite 18R, Floral Park, New York 11005, smeyerowitz@meyerowitzcommunications.com, 631.291.5541. Material for publication is welcomed—articles, decisions, or other items of interest to lawyers and law firms, in-house counsel, government lawyers, senior business executives, and anyone interested in privacy and cybersecurity related issues and legal developments. This publication is designed to be accurate and authoritative, but neither the publisher nor the authors are rendering legal, accounting, or other professional services in this publication. If legal or other expert advice is desired, retain the services of an appropriate professional. The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, RELX, LexisNexis, Matthew Bender & Co., Inc., or any of its or their respective affiliates.

POSTMASTER: Send address changes to *Pratt's Energy Law Report*, LexisNexis Matthew Bender, 521 Fifth Ave., 7th Floor, New York, NY 10175.

Thailand's Draft Regulation on Direct Power Purchase Agreements via Third Party Access for Data Centers

*By Chumbhot Plangtrakul, Thaphanut Vamolkej,
Ronnarit Ariyapattanapanich, Jidapa Songthammanuphap,
and Joseph Willan**

In this article, the authors discuss the draft regulation on direct power purchase agreements issued recently by Thailand's Energy Regulatory Commission.

On June 25, 2024, the National Energy Policy Council (NEPC) approved a pilot policy intending to enable data centers to directly procure renewable energy through direct power purchase agreements (Direct PPAs), facilitated by third party access (TPA) through the national grid for up to 2,000 MW.

The initiative is being jointly implemented by the Energy Regulatory Commission (ERC), Energy Policy and Planning Office (EPPO), Board of Investment Thailand (BOI), and the governmental utility operators, i.e., the Electricity Generating Authority of Thailand (EGAT), the Metropolitan Electricity Authority (MEA), and the Provincial Electricity Authority (PEA).

On October 3, 2025, 16 months after the NEPC's approval of the Direct PPAs pilot policy, the ERC finally released draft regulations on the Direct PPAs (Draft Direct PPA Regulation) and the draft TPA Code. While the release of both drafts represent important steps in market reform in Thailand, the focus in this article is on the Draft Direct PPA Regulation.

It is important to note that the Draft Direct PPA Regulation and the draft TPA Code are currently both in draft form and remain subject to revision through the public hearing and legislative processes. Stakeholders should be aware that the provisions outlined here may evolve as part of ongoing regulatory consultations.

PURPOSE AND POLICY INTENT

According to BOI data¹ published on March 17, 2025, between 2022 and 2024, 27 projects in data centers and cloud services applied for investment promotion, representing a combined investment value of over THB 290 billion.

This increase reflects Thailand's strategic positioning as a regional hub for digital infrastructure and its commitment to enabling large-scale, sustainable

* The authors are associated with Hunton Andrews Kurth LLP in Thailand.

¹ https://www.boi.go.th/index.php?page=press_releases_detail&topic_id=136709&_module=news&from_page=press_releases2.

operations through regulatory and energy market reforms. In addition, according to Krungsri Bank's Industry Outlook 2025-2027: Data Center Industry, the total revenue of Thailand's data center industry is projected to grow at an average annual rate of 7.5-8.5%.

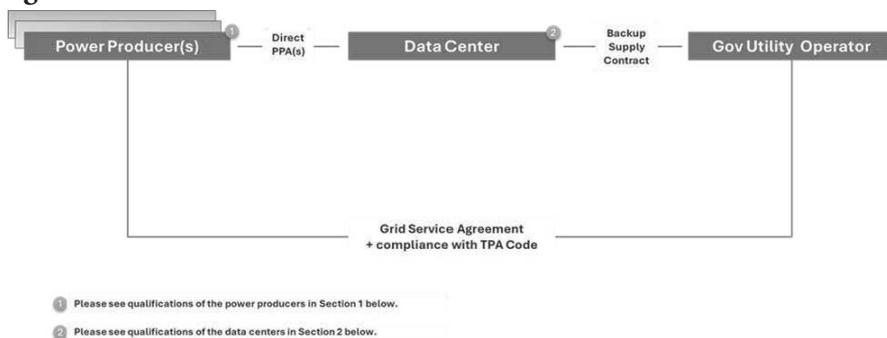
With the industry predicting substantial growth, data center operators are scrambling to secure energy at competitive prices, especially renewable energy that will also help them align with various ESG goals. As part of Thailand's ongoing efforts to support the development of the data center ecosystem in the country, Thailand continues to refine various laws and regulations to align with the country's strategic objective to position the country as a regional hub for digital infrastructure. Thailand's policy movements on the energy front not only facilitate individual project development but also contribute to the broader ecosystem necessary for sustainable growth in this sector.

The implementation of the pilot framework is designed to support BOI-promoted data centers in meeting global sustainability mandates by allowing the data centers to sign direct power purchase agreements to quickly procure renewable energy throughout the country. As such, companies producing renewable energy will be able to supply power to data centers via Thailand's national grid, promoting market liberalization and competition in Thailand's energy industry.

AT A GLANCE: CONTRACTUAL STRUCTURE FOR DIRECT PPA SCHEME

Figure 1 illustrates contractual structure under the Direct PPA scheme as contemplated by the Draft Direct PPA Regulation.

Figure 1



1. Qualification of the Power Producer and Power Plant

- Power producers must only use renewable energy sources. Based on our discussion with an ERC officer, a combination of renewable energy sources with battery energy storage system is permissible. The power

plant must be a newly established generating facility without any pre-existing PPAs whether with a private offtaker or a governmental utility operator.

- Each generating facility must have an installed capacity of at least 1,000 kVA and must have successfully secured a feeder capacity check by the governmental utility operator.
- There are no restrictions on foreign ownership; however, foreign investors must ensure compliance with the Thailand's Land Code, which generally prohibits foreigners (including a foreign majority-owned Thai company) from owning plots of land. However, if a foreign investor receives BOI promotion, land ownership may be permitted if it has been approved by the BOI.
- Based on the draft TPA Connection Code, if the installed capacity of the generating facility is at least 6 MW, the generating facility must pass a system study conducted by EGAT.

2. Qualification of the Data Center

The eligible data center must be owned and operated by an entity that:

- Receives an investment promotion by the BOI for its data center project (which includes server colocation and data hosting services).
- Intends to utilize renewable energy for 100 percent of its power demand.
- Is mandated by its group to use renewable energy and to align with its investments in other jurisdictions.
- Has a minimum IT base load of 50 MW per building and submits a comprehensive ten-year electricity plan detailing proposed Direct PPAs, grid usage, and total load projections.
- Has not yet generated income from such data center project as at the date on which it submits an application to ERC for the Direct PPAs quota.
- Has secured a backup supply contract with the relevant governmental utility operator to provide backup supply during off-peak periods or times of excess demand.
- Has developed a work plan and obtained a commitment from a power producer to utilize this Direct PPA regime. From our discussion with ERC officers, the commitment could be in the form of a non-binding MOU or LOI, where the relevant power producer expresses intention to sell electricity to the data center through the TPA and a Direct PPA.

3. Other Key Conditions and Compliance

- Power producers must comply with both the governmental utility operator's Grid Code and the TPA Code.
- Power producers are required to enter into grid service agreements for the full Direct PPA capacity within specified timelines. If they fail to do so, the data center will be forfeited of any unused Direct PPA quota.
- A single data center may be supplied by multiple power producers.
- No specific form of Direct PPA is prescribed by the ERC; it is subject to commercial terms and negotiations between the power producers and the data center. A data center may be considered a "large scale customer" and therefore the power purchaser agreements must at least contain provisions related to rights and obligations of the parties pursuant to the ERC Notification on Standards of Contracts on Power Service Provision for Large Power Users B.E. 2561 (2018).
- The grid service agreement between the power producer and utility must follow the format provided under the TPA Code.

IMPLICATIONS AND FUTURE PROSPECTS

- For data centers, it facilitates compliance with global renewable energy mandates while strengthening sustainability credentials.
- Renewable energy producers benefit from expanded market opportunities, reducing dependence on government-backed PPAs.
- Governmental utilities operators must prepare for the operational demands of wheeling services and system balancing under TPA Code.
- An expert at the Thailand Development Research Institute (TDRI), a leading policy think tank, notes that clean energy is critical for global trade competitiveness. While the current ERC regulation limits Direct PPAs to data centers, the introduction of the TPA Code creates a pathway for expanding this scheme to other industries aiming for carbon neutrality and Net Zero. This evolution could strengthen Thailand's export potential and overall competitiveness.²

² <https://www.energynewscenter.com/direct-ppa-%e0%b9%82%e0%b8%ad%e0%b8%81%e0%b8%b2%e0%b8%aa%e0%b9%80%e0%b8%9e%e0%b8%b7%e0%b9%88%e0%b8%ad%e0%b8%94%e0%b8%b6%e0%b8%87%e0%b8%94%e0%b8%b9%e0%b8%94%e0%b8%81%e0%b8%b2%e0%b8%a3%e0%b8%a5%e0%b8%87/>.

NEXT STEPS

Stakeholders are encouraged to review the Draft Direct PPAs Regulation³ and TPA Code,⁴ and prepare for compliance and implementation.

It is anticipated that government agencies, such as ERC, BOI and the governmental utility operators, will issue further guidance as the pilot project advances, prescribing criteria, procedures, and conditions.

³ https://www.erc.or.th/web-upload/200xf869baf82be74c18cc110e974eea8d5c/202510/m_publichearing/8776/580/file_download/34c5f6e0c33cf53bb3e6f3a0309f4906.pdf.

⁴ https://www.erc.or.th/web-upload/200xf869baf82be74c18cc110e974eea8d5c/202510/m_publichearing/8776/581/file_download/c3e93724234e680d5d4ecabe6bbb4d98.pdf.