



Energy Project Financing in Perú: Bankability Considerations

January 2025

2024 was a pivotal year for renewables in Peru. The country's first-ever project finance deals for solar parks with non-subsidized PPAs were successfully closed. This uptick in activity was bolstered by the rise of virtual PPAs with creditworthy offtakers. Furthermore, in December significant regulatory changes intended to boost the renewables market were approved by Congress.

The expectation is for the significance of wind, solar and hydro power to continue during 2025. As such, this material is intended to be an introduction to key bankability considerations for financing this type of technology in Peru.

Power Purchase Agreements (PPA)

Key provisions

- Payments to project company upon failure or delays in commissioning.
- Commercial Operation Date (COD) aligned with EPC schedule.
- Liability of project company for delays or failure to reach COD, or upon performance shortfalls.
- Adequate termination payment in case of an event of default.
- Tenor of PPA: sufficient to repay debt?
- Currency of PPA may be soles but subject to US inflation.
- Existence of assignment and direct agreement provisions in favor of lenders.

Licenses and Permits

Typical issues

- Mismatch between COD set forth in generation concession and COD in PPA. Concession must be amended in time to provide updated COD and construction schedule.
- Automatic one-time extension of COD in concession, through the filing of an LC with the Government, is sometimes a solution.

- Overlap of solar projects in certain areas may give rise to concurrency procedures”, where Government selects the more efficient project. Challenges to this selection procedure are common.
- Validity of Pre-Operativity Study (EPO) and Operativity Study (EO) must be checked and, if necessary, amended pursuant to new COES Procedure No. 20.

Rights of Way

Key bankability considerations

- Perfected Rights of Way (RoW) are essential to ensure the construction and operation of energy projects in Peru.
- Law establishes a regime for mandatory easements (*servidumbres*), with a regulated procedure for forcefully imposing easements over third parties.
- Issues such as land overlaps, double ownership and land disputes are common and may delay perfecting RoW, so early diligence is key.
- State-owned land may add additional layers of complexity, as depending on the agency involved the route to obtaining RoW and easements may differ.
- Social analysis of the project area is important, as existing stakeholders could generate issues from a legal and reputational point of view. This is usually dealt with through environmental consultants.

Security Package

Typical collateral documents

- Mortgage over real estate.
- Cash flow trust.
- Asset trust.
- Direct agreements with typical step-in rights over main project documents: PPA, EPC, O&M, interconnection agreement, etc.
- Share pledge.
- Account pledge.

Recent Regulatory Change

Renewable-friendly change in law

As of January 20, 2025, new Law No. 32249 entered into effect, implementing the following changes:

- Two specific energy generation markets were created: one for the sale of firm capacity, and another for the sale of firm energy.

- Renewable generation is promoted for purposes of participating in tenders called by distribution companies. Distribution companies will be allowed to require generation plants to supply either (i) energy and capacity, or (ii) only energy, segregated in hourly portions.
- The benchmark for the bus bar tariff may not differ by more than 10% of the weighted average price of: (i) PPAs resulting from public tenders; and (ii) PPAs with non-regulated costumers.
- A new complementary services market is created for purposes of services required to guarantee the quality and reliability of the electricity supply, such as Battery Energy Storage Systems (BESS), as from January 2026.

Contact information



Diego Harman

Partner

diego.harman@garrigues.com

[View full profile](#)



Giancarlo Vignolo

Principal associate

giancarlo.vignolo@garrigues.com

[View full profile](#)



Carolina Pérez-Taiman

Senior associate

carolina.perez@garrigues.com

[View full profile](#)

GARRIGUES

Av. Víctor Andrés Belaúnde, 332 (Oficina 701)

San Isidro - Lima (Perú)

T +51 1 399 2600

info@garrigues.com

Follow us



© 2025 J&A Garrigues, S.L.P. | This publication contains general information and does not constitute a professional opinion, or legal advice.

garrigues.com