

Global Renewable Energy, Emissions & Efficiency Experience

RECENT REPRESENTATIVE TRANSACTIONS

Wind Power Projects (United States)

Project Development:

- Advised a top wind generation project developer in relation to the project development financing and tax credit monetization of wind farm projects in the United States, including assisting the client with evaluating proposals from multiple counterparties, the simultaneous negotiation and documentation of multiple hedges under the ISDA master agreement, and the development of a power purchase agreement and energy management contract
- Represented a wind developer in connection with the development and financing of two Minnesota wind projects that collectively exceed 200MWs
- Represented a wind turbine manufacturer in connection with sales, installation, warranty and O&M agreements for more than 60MWs of projects in New York and Pennsylvania
- Represented a wind developer in the development of its approximately 16MW Foote Creek facility in Wyoming (including the negotiation of its PPA, O&M, EPC and other project contracts)
- Advised Canadian wind energy company in a joint venture with an Italian developer for the construction and financing of windparks with an overall generation capacity of 300-450 MW in Central and Southern Italy, valued between €300 and 400 million with most of the financing done through true non-recourse project financing

Wind Power Projects (United States)

PPAs / Hedging:

- Negotiated a unit contingent wind energy and renewable energy credit transaction, including back-to-back agreements, with wind generation purchasers
- Negotiated for a wind developer renewable energy certificate and green tag agreements associated with wind facilities located in New York, Texas and Maine
- Negotiated on behalf of a wind developer a structured “all requirements” PPA with a Massachusetts utility, including advising the developer on the regulatory approval process, credit risk and bidding rules
- Negotiated a wind power purchase agreement, including environmental attributes and renewable energy certificates, on behalf of an investment bank’s commodity division

- Assisted an integrated energy company with the negotiation of multiple renewable energy certificate confirmations under master agreements in Texas, as well as in the PJM, ISO-NE and NYISO power pools
- Represented an investment bank in numerous structured, unit contingent, physical power transactions where the power is generated by a wind farm, including some transactions involving complex collateral arrangements, such as first and/or second liens on the wind turbines

Wind Power Projects (United States)

Regulatory:

- Advised a wind developer in relation to capacity, energy and ancillary market structure in ISO-NE and ERCOT regions
- Advised a venture capitalist firm regarding the renewable portfolio standards and other voluntary renewable standards in approximately 22 states
- Assisted a wind developer regarding transmission interconnection issues in Texas and New York
- Advised an investment bank's commodity division and its special situations lending division on the FERC and state regulatory implications of equity ownership in a variety of wind generation projects throughout the United States

Wind Power Projects (United States)

M&A:

- Advised a wind developer in connection with various asset acquisitions in Massachusetts and Canada
- Represented several wind developers in connection with their acquisition, development and financing of a 16MW project in California
- Represented a development company in connection with a stock purchase agreement for the acquisition of equity interests in a privately-held wind energy company
- Represented a wind developer and operator in connection with the sale of a 6.5MW wind farm in California
- Represented a development company in connection with stock purchase agreement for the acquisition of equity interests in a privately held wind energy company
- Represented an investment fund as the lead investor in a preferred and common stock private placement with a development-stage company focused on the renewable energy sectors of wind and solar

- Represented a real estate and investment company in connection with the acquisition of two wind farms in Crete, Greece
- Represented a leading U.S. investment bank in connection with prospective wind-power acquisitions and projects in Central and Eastern Europe
- Acted for a Spanish electric company in its bid to acquire all of the shares owned by a developer in its Spanish wind farm business, including wind farms in both the operational and development phases

Wind Power Projects (United States)

Finance:

- Represented a bank in connection with the restructuring of the \$42 million secured project finance bridge credit facility of a wind project in California
- Represented a Japanese bank in connection with the restructuring and liquidation of a \$15 million wind powered project in Hawaii
- Assisted developer with strategy and implementation of the application of energy tax credits and the monetization of such credits regarding wind projects
- Represented a \$3 billion multistrategy hedge fund in connection with a \$13.5 million secured loan and a participating interest to the managers of a wind power project, which allowed the managers to buy preferred units in the project
- Represented subsidiary of the largest provider of renewable energy in France in a joint venture with an Italian developer for the structuring and negotiation of a 40 MW wind farm project in Italy and its financing, resulting in precedent setting authorization of the wind farms requiring lengthy and complex administrative proceedings with project financed through ordinary bank loans, which were primarily guaranteed by the subsidiary with recourse to the other party to the joint venture

In addition to the specific transactions noted above, we also regularly assist clients by:

- Monitoring, analyzing and providing government strategy advice regarding expansion of federal and state investment and production tax credits related to wind generation
- Advising developers, investors and energy/renewable energy certificate purchasers on issues surrounding wind resources, including interconnections, transmission system reliability issues, receipt and delivery of energy from renewable energy resources, renewable energy trading credits, renewable energy tax credits, and various other emergent factors in all relevant control areas in the United States, including ERCOT

Solar Energy (United States and International)

Finance / Transactional:

- Represented a private equity firm as the sole investor in a \$15 million convertible note and warrants PIPE transaction with a manufacturer of photovoltaic foil products that convert sunlight into energy
- Represented a provider of microcomputers and integrated circuits, which monitor and diagnose large, commercial solar panel grids, in its Series A Preferred Stock financing
- Represented an investment fund as the lead investor in a preferred and common stock private placement with a development-stage company focused on the renewable energy sectors of wind and solar
- Assisted one of the largest retailers and commercial end-users of electricity in the drafting energy and renewable energy certificate/credit (REC) purchasing from renewable facilities
- Advised a venture capital firm regarding solar market structure and potential

Solar Energy (United States and International)

Regulatory:

- Assisted one of the largest retailers and commercial end-users of electricity with regulatory advocacy in various states to reduce barriers to distributed solar generation
- Represented one of the largest retailers and commercial end-users of electricity regarding California solar incentives, tradable renewable energy credits and related market structure
- Advised one of the largest silicon chip manufacturer on solar market structure, legislation and transactions in the United States and international markets
- Assisted financial institution regarding analysis of qualifying facility and state generator status of “behind the meter” solar installations and overall impact on regulatory status and compliance

Solar Energy (United States and International)

Intellectual Property:

- Advised an international designer and manufacturer of advanced technology systems in patent prosecution matters involving the development of solar cells
- Represented a global, private pharmaceutical and precious metals company on a variety of intellectual property issues regarding solar-thermal panels and array technology
- Assisted one of the largest retailers and commercial end-users of electricity with intellectual property issues regarding solar technology developed with government labs

Renewable Energy Certificates (United States and Europe)

- Developed and negotiated renewable energy certificate/credit (REC) agreements, including drafting homegrown and emerging industry master REC forward agreements, brown-to-green swaps and total output with RECs power purchase agreements
- Advised regarding all state renewable portfolio standards, both mandatory and voluntary, and independent system operator REC tracking and banking requirements
- Advised regarding the various renewable energy product types, qualifications and the ownership of renewable attributes on a state-by-state basis
- Advised on the CFTC regulatory issues associated with posting bids and offers for REC transactions via an electronic communications network and/or executing REC transactions on an electronic trading facility, in each case with eligible commercial entities and with commercial, industrial and retail customers

Geothermal Thermal / Hydro / Hydrokinetic (United States) Project Development:

- Represented an investment bank in connection with multi-faceted non-recourse project financing of up to 155 MWs of geothermal capacity across multiple project companies. The bank's agreement with the developer included a process for agreeing to tax equity purchases and financing commitments for each project, a right of first refusal to finance certain projects and an award of a series of warrants on shares of the developer's stock triggered by project financings and other events
- Represented an investment company in connection with a management and development agreement for the management and development of certain geothermal resources in Nevada
- Represented an investment company in connection with the operation and maintenance agreement for an 11 MW modular geothermal power plant in Nevada

Geothermal Thermal / Hydro / Hydrokinetic (United States) Regulatory:

- Represented a hydrokinetic turbine manufacturer and project developer in developing federal and state government strategies and advocacy before FERC for the licensing, financing and deployment of free-flowing hydrokinetic turbines
- Represented a geothermal project developer before FERC regarding interconnection dispute

Geothermal Thermal / Hydro / Hydrokinetic (United States) Finance / M&A:

- Represented an investment company in connection with a secured loan agreement for the financing of working capital and geothermal well development

- Represented an investment fund as the lead investor in a preferred and common stock private placement with a development-stage company focused on the renewable energy sectors of wind, solar and geothermal
- Represented an investment company in connection with the acquisition of direct / indirect equity interests in three companies involved in the geothermal industry
- Represented an investment company in connection with an asset purchase agreement for the acquisition of a geothermal lease and geothermal wells on the property subject to the lease

Related Renewable and Emerging Green Technologies

- Advised a flywheel electricity storage technology company on production and investment tax credit monetization, ancillary services and related market opportunities
- Represented an electricity storage technology company regarding federal and state legislative strategy to change the law to capture production and investment tax credits for its technology
- Advised a municipal lighting department on the development of a green renewable program with innovative renewable and demand response components
- Assisted a municipal lighting department regarding contracting with a wood-fired renewable power generation plant, including analysis of capital structure, financing options such as tax exempt bonds and pre-payment of costs, PPA negotiations and novel forward purchasing options for RECs
- Advised venture capitalist firm on renewable due diligence and interconnection issues

Biofuels and Other Renewable Sources (United States and International)

Transactional /Finance:

- Represented power marketers in negotiating PPAs with biofuel power plants
- Advised a private equity firm in connection with its investment in notes issued by a bio energy company engaged in the business of developing, owning and operating multi-product biorefineries using proprietary technologies to produce ethanol and specialty chemicals from traditional feedstocks and waste biomass
- Represented an investment fund as the lead investor in a preferred and common stock private placement with a development stage company focused on the renewable energy sectors including biomass and biofuels

Biofuels and Other Renewable Sources (United States and International)

Regulatory:

- Advised an international food company about joining the Malaysian Derivatives Exchange (MDEX) to trade palm oil futures

- Advised an international food company, which buys palm oil in Malaysia, refines it in Australia and exports it to Europe, on the regulatory requirements applicable to an affiliated entity in Australia that will trade OTC forward contracts and derivatives contracts based upon notional quantities of renewable energy commodities (primarily palm oil)

Biofuels and Other Renewable Sources (United States and International)

Intellectual Property:

- Provided comprehensive IP due diligence advice to start-up and emerging growth companies that are developing biofuel cells
- Provided strategic IP counseling, including with regard to patent prosecution strategy, to numerous companies involved in renewable technology including technology matters relating to biomass energy and biofuel cells, hydrogen and fuel cells
- Drafted fuel cell patent applications and have prosecuted many fuel cell patent applications for a variety of technology companies

Greenhouse Gas and Emissions Trading

Hedging / PPAs:

- Represented ISDA, the leading derivatives industry association, in drafting the current industry standard U.S. emissions trading agreement
- Advised investment banks and hedge funds on structured energy transactions involving the acquisition of power assets and the related complex issues concerning emissions allowances (relating to current and future U.S. emissions programs, the Kyoto mechanisms and the EU ETS)
- Advised U.S. and EU investment banks and hedge funds in the initiation of their emissions allowance trading desks and draft and negotiate the related trading documentation
- Represented investment banks, hedge funds and trade associations in regulatory analysis and transaction negotiations related to emissions trading, including analysis of the governing U.S. and EU regulatory issues related to emissions trading
- Prepared numerous clients for participation in the U.S., UK, EU and Kyoto emissions trading mechanisms, including analyzing, drafting and negotiating associated emissions trading documentation
- Advised clients regarding the purchase of certified emission reductions (CERs) from Clean Development Mechanism (CDM) projects, including documentation and regulation issues
- Prepared numerous clients for participation in the U.S., UK, EU and Kyoto emissions trading mechanisms, including analyzing, drafting and negotiating associated emissions trading documentation
- Structured complex hedging proposals underlying acquisitions, including those related to emissions allowances

- Advised clients regarding the purchase of certified emission reductions (CERs) from Clean Development Mechanism (CDM) projects, including documentation and regulation issues

Greenhouse Gas and Emissions Trading Regulatory:

- Represented a non-profit organization in connection with the creation of a U.S. State GHG offset/credit registry that would allow GHG emission reduction projects to place emission offsets on the registry's database for trading in the secondary GHG market, including drafting the registry's rules, drafting offset transfer and attestation agreements and advising on related regulatory and intellectual property issues
- Advised clients with respect the regulatory facets of the US and EU emissions markets, including advising on European Commission, CFTC, FERC, EPA and US State and EU member regulatory regimes
- Advised various market participants on their risk management of, and strategic involvement in, the carbon markets, through the EU ETS, the Kyoto mechanisms and U.S. programs

Greenhouse Gas and Emissions Trading Finance:

- Represented a leading international energy marketer in making a founding investment in a new commodity futures exchange being developed by the NYMEX to trade emission allowances, CERs, GHG credits, RECs and other similar futures contracts
- Advised leading carbon fund on a share sale fundraising
- Advised two investment banking and institutional stock-broking businesses as brokers and nominated advisors on admission to AIM of an investment fund established to acquire tradable environmental Kyoto instruments with its initial investments in projects developed under the CDM and Joint Implementation Schemes of the Kyoto Protocol
- Advised a variety of clients on the tax relief and liabilities arising from emission credits and allowances and managing these tax consequences including advice on the UK corporate tax and VAT treatment of allocations, sales and purchases of emissions allowances under the EU Emissions Trading Scheme, and the supply of related broker services
- Through our strategic alliance with MWE China Law Offices, we have access to one of the world's largest primary certified emission reductions (CER) markets, and a dedication to monitoring all regulatory and political developments throughout the major Asian markets.

Energy Efficiency: Conversation and Demand Response (United States)

- Advised investment bank on development of tax exempt municipal "green" bonds, as potential underwriter, for significant scale energy efficiency and conservation measures

- Represented a major international commercial retailer regarding state level utility rate design and public policy to encourage energy efficiency measures, including “decoupling” of utility revenue requirements from sales volumes
- Assisted major international commercial retailer regarding regional transmission organization and state level utility policy and rules regarding smart metering and smart grid technology
- Advised an investment bank’s commodity division regarding implementation of a demand response joint venture to capture market clearing power prices for demand response in ERCOT
- Prepared analysis for retail electricity end-user concerning administrative litigation involving state and utility sponsored energy efficiency programs and policies, including demand response and demand side management
- Reviewed, for both a retail electricity end-user and for a municipal lighting plant, the rate design, incentives, societal benefit charges and cost allocation associated with energy efficiency measures deployed by public utilities, including participation in regulatory rate and policy setting proceedings before multiple state commissions
- Reviewed competitive metering and data as it relates to energy efficiency measures for retail electricity end-users and for a technology company
- Developed policies, strategies and documentation for a retail electricity end-user to address the ownership of emissions reductions and renewable attributes associated with the implementation of energy efficiency and renewable measures
- Advised a major retail company on the development of “white tag” energy efficiency state and regional tracking and trading systems
- Advised a commercial energy consumer and a refined products manufacturer regarding the coordination of energy purchasing (including renewable generation supply), demand reduction, and load response as part of a comprehensive energy efficiency and sustainability plan
- Advised marketers, schedulers, commercial users, project developers, financial institutions and technology vendors on federal and state regulatory and market structure regarding energy efficiency measures, including load/demand response, demand-side management, smart metering, new construction, and the formation of related energy efficiency, emissions offset and renewable trading opportunities
- Analyzed PJM, NYISO, ERCOT, ISO-NE and MISO demand response programs, including eligibility, scheduling, aggregation and participation in energy, capacity and potential ancillary services markets
- Advised clients on intellectual property, technology and data protection considerations regarding the implementation of energy efficiency measures.

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