

Energy and Infrastructure Projects

Skadden has one of the world's most experienced practices focused on energy and infrastructure transactions, including mergers and acquisitions, project finance and project development across all fuel types. With energy and infrastructure projects attorneys across the globe, Skadden has closed hundreds of complex transactions throughout North America, Latin America, Europe, Africa, Asia and the Middle East involving energy-related and other infrastructure facilities.

Our energy and infrastructure practice has repeatedly been selected as one of *Law360's* Energy Groups of the Year, including in 2021. We also were recognized for our work on four matters at the *IJGlobal Americas Awards* in 2018, and we were shortlisted for a *Chambers USA* 2016 Award for Excellence in Projects: Power (including renewables). We have been consistently recognized as one of the top firms in the areas of power, electricity, renewables and alternative energy, and oil and gas by *Chambers USA*, *Legal 500*, the *International Financial Law Review* and other leading publications. We have one of the world's premier practices representing clients in the development, financing, construction, operation, acquisition, ownership and disposition of energy and infrastructure projects.

Recent Highlights

- BNP Paribas in connection with a \$395 million senior secured credit facility consisting of a \$320 million Term Loan B facility and a \$75 million letter of credit facility for Northeast Wind provided to refinance a portfolio of wind farms. This matter was named the North America Wind Deal of the Year for 2013 by *Project Finance* magazine.
- Citibank, N.A. and its affiliates in connection with a number of tax equity investment funds, including inverted leases, partnership flips and a first-of-its kind PACE transaction. The investments have been in the residential, commercial and industrial sectors.
- Deepwater Wind LLC in the negotiation of a 20-year power purchase agreement for the 90-megawatt South Fork offshore wind project, which was approved by the Long Island Power Authority. The project will be constructed off the eastern tip of Long Island, New York, and will be the second-ever offshore wind farm in the U.S. and its largest.
- Dynegey Inc. in connection with its \$3.3 billion acquisition of the United States fossil portfolio of Engie S.A., including the formation of a joint venture with Energy Capital Partners (ECP) to acquire the portfolio, and Dynegey's related \$150 million sale of common stock to an affiliate of ECP. In connection with the closing of the transaction, Dynegey acquired ECP's 35 percent interest in the joint venture and owns 100 percent of the acquired business.
- Enel Green Power North America, Inc. in its sales to GE Energy Financial Services of an aggregate 50 percent interest in an approximately 760 MW portfolio of renewable energy projects, including hydroelectric, geothermal, wind and solar electric generating assets, all located in North America. Enel will continue to manage, operate and maintain the assets.
- Exxon Mobil Corporation in its \$2.8 billion acquisition of a 25 percent stake in a Mozambique gas field from Eni SpA.
- First Solar, Inc. in connection with the formation and \$420 million initial public offering of Class A shares representing limited partner interests of 8point3 Energy Partners LP, a new yieldco formed as a joint venture between First Solar and SunPower Corporation to own, operate and acquire solar energy generation projects. At its IPO, 8point3 Energy Partners LP owned interests in 432 MW of solar energy projects. Skadden also has represented First Solar in connection with numerous project development, finance, tax equity and M&A matters.

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- Hanwha Q CELLS Co., Ltd. in a solar module supply agreement with a subsidiary of NextEra Energy, Inc. Hanwha Q CELLS will provide more than 1.5 GW of solar modules to NextEra for solar projects in the United States. NextEra's upfront payment was secured by a letter of credit issued by the Export-Import Bank of Korea and a guaranty by a Hanwha affiliate. At the time of its signing, this was the largest agreement of its kind in U.S. history.
 - J.P. Morgan Asset Management in the acquisition of Sonnedix Power Holdings, an independent solar power producer with projects in Western Europe, Japan, Thailand, Chile, South Africa and Puerto Rico, by institutional investors advised by J.P. Morgan Asset Management. The transaction comes less than two years after the two firms began partnering to pursue opportunities in the rapidly expanding global solar market.
 - Morgan Stanley & Co. LLC as lead initial purchaser in a \$575 million Rule 144A/Regulation S offering of 5.5% senior secured notes due 2032 by México Generadora de Energía, S. de R.L., which is developing a 500 MW gas-fired, combined-cycle generating facility in Mexico. This transaction was named Power Finance Deal of the Year for 2012 by *Latin Finance*.
 - Morgan Stanley, Bank of America Merrill Lynch, Credit Suisse, RBC Capital Markets and J.P. Morgan Securities LLC in eight separate project bond financings for the Sabine Pass Liquefaction Project owned by Cheniere Energy Partners for the issuance of over \$12.8 billion of senior secured notes. The proceeds of these offerings are being used for the construction of five natural gas liquefaction trains at Sabine Pass Liquefaction's facility in Cameron Parish, Louisiana. The original offering was named North America Midstream Oil & Gas Deal of the Year for 2013 by *Project Finance* magazine. The "cross-over" bond offerings were named America's LNG Project Finance Deal of 2016 by *Power Finance & Risk*.
 - Pattern Energy Group LP (Pattern Development) in the financing, including tax equity investments, and \$269 million sale of its interests in the 324 MW Broadview Wind power facility in New Mexico and the associated independent 35-mile 345 kV Western Interconnect transmission line to Pattern Energy Group Inc. This matter was named the 2016 "North America Transmission Deal of the Year" by *IJGlobal*.
 - Société Générale and Morgan Stanley as joint lead arrangers and lead underwriters, and a syndicate of commercial bank lenders in a \$636 million credit facility provided in connection with the acquisition by EIG Global Energy Partners of a 49 percent interest in the Elba LNG liquefaction facility on Elba Island, Georgia, from Kinder Morgan, Inc. In addition to the acquisition, proceeds of the credit facility will be used to finance EIG's portion of costs for the construction, installation and commissioning of 10 liquefaction units to be owned by Elba Liquefaction.
 - Government of South Sudan in its oil sector negotiations with North Sudan and in South Sudan's oil production and transportation arrangements with the international oil companies operating in the region.
 - A syndicate of 18 international banks and other financial institutions in connection with Sasol Limited's \$4 billion credit facility for its ethane cracker, which converts ethane into ethylene, at its existing site in Lake Charles, Louisiana. This matter was named Americas Petrochemical Deal of the Year for 2014 by *Project Finance International* and North American Petrochemicals Deal of the Year for 2014 at the first annual *IJGlobal Americas Awards*.
 - U.S. Department of Transportation, acting through its Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF) credit programs in connection with numerous transportation infrastructure loan transactions. We also have represented the US Department of Energy, acting through its Loan Program Office (LPO), in connection with several projects financed under its loan guarantee programs.

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Core Capabilities

Project Finance

Skadden consistently has been at the forefront of the project finance market, representing lenders and borrowers in some of the most complex project financing transactions, including numerous “deals of the year.” Our experience includes advising borrowers; commercial banks; insurance companies; investment and merchant banking firms; export credit agencies and multilateral institutional investors; and other financing institutions, corporate lenders and venture capital investors in a large number of major energy project financings.

Project Development

Starting with the very first Qualifying Facilities projects under the Public Utility Regulatory Policies Act of 1978, our attorneys have extensive experience representing developers, contractors, operators, fuel suppliers, off-takers and other parties involved in greenfield and brownfield project ownership, development and construction, fuel supply and transportation, and operations and maintenance matters. We have been particularly active in the development of U.S. and international solar, wind, transmission, nuclear, geothermal, biomass and electric power generating projects, as well as LNG projects in Asia, Egypt, the Caribbean and Latin America.

Private Mergers & Acquisitions

Our attorneys have worked on numerous acquisitions and divestitures, both negotiated and unsolicited, for all types of energy projects, including electric generation, transmission, and distribution assets and companies, representing buyers, sellers, underwriters and lenders. We represent yieldcos, manufacturers, investors and underwriters in M&A and corporate finance transactions, including private placements and public debt and equity issuances. Skadden is also a recognized leader in handling regulatory approvals for complex M&A transactions. This experience gives our attorneys familiarity with the business realities driving potential transactions, and we regularly advise the boards and senior management of our clients throughout the M&A process.

Project Restructurings

Skadden represents sponsors, lenders, equity investors and other interested parties in restructuring companies or projects where the company, the project or one or more of its major project participants becomes financially impaired. We have worked on a number of project restructurings in recent years, including projects in the United States, Argentina, Bolivia, Brazil, Colombia, the Dominican Republic, Guam, Guatemala, India, Indonesia, Nicaragua, Poland, the Philippines, Turkey and the United Kingdom. We draw upon the firm’s corporate restructuring, litigation and Uniform Commercial Code practice groups for advice on specific topics of concern. We have extensive experience drafting, analyzing and negotiating virtually every type of project agreement, whether involving conventional or renewable energy sources.

Tax Equity Transactions

We have extensive experience planning and structuring transactions in the renewable energy sector. Our tax-related energy experience also involves assisting energy-focused clients with industry-specific issues, both in the transactional and planning context, and in controversies and litigation, including matters before the Internal Revenue Service. Skadden’s Tax Group has worked on developments, financings, refinancings, acquisitions and dispositions of energy projects and portfolios of all sizes in the U.S. and around the globe. With our broad-based transactions practice, we have assisted numerous clients in evaluating, structuring and implementing novel transactions in the renewable energy sector, including taking advantage of tax credits, grants and other governmental incentives designed to spur investment in renewable energy projects.

Yieldcos

Skadden has significant experience representing project sponsors, issuers, underwriters and lenders in the formation, IPO and financing of yieldcos and other debt and equity warehouse financings. Yieldcos, with their low cost of capital and need for continued growth, will continue for some time to have a major impact on the renewable energy market, including the M&A market and as an “exit strategy” for developers. Whether or not a company’s transactions involve yieldcos, the firm’s experience representing developers in forming yieldcos, and our experience with yieldcos in the M&A market, will assist when formulating and implementing an acquisition strategy in today’s market.

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Industry Experience

Conventional / Non-Renewable Power Sources

The firm has significant experience drafting, analyzing and negotiating a variety of project agreements involving conventional energy sources such as gas, coal and oil. We represent utility and independent power producer owners, developers, operators, fuel suppliers, offtakers and other parties in connection with greenfield and brownfield projects, and we are experienced in governmental implementation contracts and guarantee arrangements, joint venture arrangements, fuel supply and transportation arrangements, international construction contracts, operation and maintenance (O&M) agreements, equipment purchase agreements and long-term service agreements.

Oil, Gas and Other Natural Resources

Skadden regularly advises strategic players, lenders and private-equity investors in acquisitions, divestitures, financings and development programs in oil and gas and hard minerals exploration and production, pipeline and other methods of transportation and related service sectors. These include investments in oil and gas properties in the U.S. (both onshore and offshore), including drilling programs with strategic parties, acquisitions of companies or individual properties, and acquisitions from parties in Chapter 11.

Solar

Our work on behalf of solar energy companies, yieldcos, manufacturers, investors and underwriters includes project development, joint ventures, acquisitions, divestitures, corporate and structured financing transactions, tax-equity investments, private placements, and public debt and equity issuances, as well as tax, environmental and intellectual property matters. We represent project sponsors in developing solar projects and transmission lines, including negotiating joint venture, power purchase, construction, equipment supply warranties, and operating and maintenance (O&M) agreements. Skadden has closed challenging and complex transactions throughout North America, South America, Europe, Africa and Asia involving solar energy and other energy-related facilities.

Wind

Skadden has advised on the development, acquisition and financing of domestic and international wind energy generation projects. We have represented project developers, financial institutions, electric utilities, private equity and other investors in the development, construction, operation, acquisition, disposition, ownership and financing of U.S. and international wind energy generation projects. We also represent numerous clients regarding the negotiation of PPAs, joint venture arrangements, as well as federal regulatory, real estate, environmental, transmission, and U.S. and international tax issues for wind energy generation projects. We are able to draw on our experience in a broad range of practices to advise in almost any discipline that is required to serve the wind power industry.

Nuclear

Skadden has applied our knowledge of M&A transactions to the specific challenges associated with the purchase and sale of nuclear projects and businesses. Our work in the nuclear industry has included structuring acquisitions and dispositions of nuclear facilities to minimize potential nuclear and non-nuclear liabilities and maximize statutory protection for potential sellers and purchasers of nuclear projects; conducting due diligence on nuclear development, construction, operation and decommissioning matters; negotiating agreements for the purchase, sale and spin-off of nuclear projects; and obtaining required licenses and government approvals, including from the Nuclear Regulatory Commission and the Committee on Foreign Investment in the United States.

Biomass / Waste-to-Energy / Geothermal

Our firm has been involved in representing developers and lenders in connection with biomass and waste-to-energy projects since the early 1980s. Decades of experience has contributed to a full understanding of the issues that are particular to the industry. We have also been involved in the geothermal industry since 1992, when we represented the underwriters in the very first geothermal 144A project financing. Since that time, we have continued to advise developers, offtakers and financing parties concerning the special issues that arise in the geothermal industry.

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Hydroelectric

Skadden is highly experienced on all types of power generation projects, including matters relating to hydroelectric projects and facilities. We advise on all phases of hydroelectric transactions, including project development, financing, and acquisition and divestiture. We understand the legal, diligence and deal issues that are important to project sellers, investors, borrowers and lenders. As a recognized leader in high-profile energy M&A transactions we have extensive experience navigating the regulatory issues that impact an energy transaction, including environmental and real property issues associated with hydroelectric projects and associated dams. We are able to develop creative solutions to Federal Energy Regulatory Commission (FERC) issues and other issues arising from transfers of hydroelectric projects.

Infrastructure/Public-Private Partnership

Our attorneys have vast experience in the areas of aviation, road and rail infrastructure, with deep knowledge of public-private partnerships, privatizations, mergers and acquisitions, corporate finance transactions, and litigation and arbitration matters relating to these transportation sectors. Transactions and disputes involving railroads and roadways require a coordinated and multidisciplinary approach, with sensitivity to the special issues relating to assets that constitute critical infrastructure.

Transmission

Skadden has represented the sponsors of many of the first successful independent transmission projects developed and financed in the U.S. and internationally. Our work has included drafting and negotiating agreements for development capital, transmission capacity purchase agreements, construction contracts, joint ownership agreements using tenancy in common structures, financing agreements for construction and permanent financing, offering documents associated with the public offering of shares in independent transmission companies, and purchase and sale agreements in the sale of transmission projects. In addition to our work associated with independent transmission projects, Skadden also advises on the development, construction and financing of transmission facilities for electric utility clients.

Construction

Skadden advises on all aspects of construction transactions and resolution of construction-related disputes. We cover the spectrum of conventional and renewable energy projects and infrastructure matters, including natural gas, coal, nuclear, wind, solar, geothermal and biomass power plants, natural gas pipelines and gas processing facilities, electric transmission lines, LNG liquefaction and regasification facilities, railroads, cement plants, resort hotels and casinos, sports stadiums, roads, airports, ports and water infrastructure facilities, and marine construction. We have experience in the U.S. and internationally structuring contracts (both on a turnkey and multiple contract basis) under various pricing structures and in addressing cross-border issues.

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Supporting Practices

Capital Markets

Our Capital Markets Group regularly represents clients in financings in the energy and infrastructure sectors, including borrowers, commercial banks, investment and merchant banking firms, export credit agencies and multilateral institutional investors, corporate lenders, private equity investors and venture capital investors. These transactions have involved numerous types of financing arrangements, including commercial bank financings; multilateral, bilateral and export credit agency financings; construction and term debt facilities; equity and debt syndications; partnerships; public and private security issuances; and various lease-based transactions. Skadden also has been at the forefront of yieldco transactions and frequently represents project sponsors in creating yieldco vehicles, including major solar and wind power companies.

Skadden's experience encompasses all combinations of debt and equity instruments issued by U.S. and international energy companies in markets worldwide. Operating in a capital markets environment characterized by rapid change and innovation, our attorneys are often relied upon to structure new securities and transactions that enable their energy sector clients to meet their business goals. Skadden consistently has been named one of the leading firms globally in capital markets by *Chambers Global* and *Chambers USA*, with many of our attorneys individually identified as leaders in the area of corporate finance.

Energy Regulation and Litigation

Skadden is one of the few major law firms with a dedicated practice group advising on all regulatory aspects of the U.S. energy industry. Our Energy Regulation and Litigation Group is consistently ranked among the leading practices by *Chambers USA* and *Legal 500*. The group has been described in *Chambers USA* as "Outstanding, the best of the best, the gold standard" ... with a "very broad and deep bench of outstanding attorneys" and, further, that "Skadden is an absolute powerhouse. ... A true juggernaut practice."

A number of attorneys in the group have held senior positions at the FERC, including a former FERC commissioner, two former FERC general counsels and several nonlawyer professionals. The group has played a lead role in many of the most important FERC cases, including trials and appeals, over the last several years. In addition, the group handles all types of energy litigation, including court litigation at both the trial and appellate stages and arbitrations.

Environmental

Our Environmental Group helps clients adhere to stringent environmental laws and regulations. The firm's practice involves litigation in state and federal courts and in administrative proceedings. We have defended environmental civil penalty and criminal cases, lawsuits involving disputes over environmental contract terms, cost recovery actions under Superfund and natural resource damage, among other cases involving environmental statutes. Skadden attorneys also provide regulatory counseling — negotiating environmental contract provisions and conducting due diligence audits in connection with mergers, acquisitions and project financings — both inside and outside the United States. We also advise on international environmental and trade issues.

Mergers and Acquisitions

Skadden is one of very few large, corporate law firms with a significant energy practice (both transactional and regulatory), which complements our leading M&A experience. Our firm has been engaged in a broad range of energy-related transactions, including mergers and acquisitions, asset auctions, joint ventures, strategic alliances, corporate and project financings, and major energy project developments.

We counsel a number of energy companies and utilities with respect to holding company reorganizations, restructurings, strategic evaluation of potential acquisitions and general defensive advice. We have vast experience structuring transactions to achieve business, tax and strategic objectives, performing extensive due diligence on key agreements, and advising the boards and senior management of our clients throughout the M&A and corporate finance processes.

Real Estate

Skadden's Real Estate Group has extensive experience in representing energy clients in developments, financings (including construction financing), joint venture investments, acquisitions and dispositions. In this area, we have represented clients in some of their most noteworthy deals covering a wide range of various energy production methods including solar, wind, geothermal, hydropower, natural gas, nuclear energy, and coal as well as energy distribution systems for gas and electricity.