



Climate Change, Clean Technology, & Renewable Energy

RENEWABLE ELECTRICITY GENERATION

Van Ness Feldman maintains an active renewable energy practice in which we advise clients on all phases of project structuring, development and operation. In the last three years, we have participated in the development of over 1300 MW of wind energy generation facilities, as well as on numerous biomass, geothermal and solar projects.

Acquisitions and Equity Investments

The firm advises clients on all aspects of asset acquisitions and investments, including:

- Due diligence for target projects, review of documentation, identification of regulatory and commercial risks, as well as analysis and scaling of risks.
- Bid preparation, purchase and sale negotiations and documentation, and document review to ensure compliance with federal and state regulatory requirements.
- Review of financing documents and preparation of legal opinions concerning regulatory compliance for financing.

Agreements and Transactions Involving Renewable Projects

The firm represents energy providers and other clients involving:

- Project structuring and ownership agreements
- Power purchase and sales agreements
- Transmission and interconnection agreements, including three party arrangements with regional transmission organizations and transmission owners
- Market-based rate authorizations and other regulatory filings with the Federal Energy Regulatory Commission (FERC) under the Federal Power Act (FPA)
- Certifications under PURPA or the Public Utility Holding Company Act of 2005
- Equipment contracts
- Ground and equipment leases
- Operation and maintenance agreements
- Joint venture and partnership agreements

- Review, negotiation of and litigation about renewable energy certificates and credits (RECs).

In addition, the firm currently is involved in federal district court litigation regarding the transfer of RECs generated from a biomass qualifying facility under PURPA contracts.

Permitting and Land Use

Representation of companies involved in the renewable electricity generation industry necessarily cuts across the core elements of Van Ness Feldman's focus: energy, environment, and natural resource law.

As such, the firm offers unique capabilities helping clients manage land use laws and expedite Federal permits needed for the construction and operation on public lands of wind and solar farms and the linear projects associated with them (such as transmission lines), including:

- Endangered Species Act
- Migratory Birds Act
- Native American Graves Protection and Repatriation Act
- Rights-of-way grants
- Special use permits
- Greenfield and brownfield permits
- Other nationwide permits
- Plans of development

These goals are accomplished while ensuring that the projects are in full compliance with all federal energy and environmental laws and environmental justice Executive Orders that govern their development.

Renewable Energy Policy

The firm is actively involved with the highest levels of the government and the private sector to promote, influence, develop and implement many of the major laws affecting the development and regulation of renewable energy.

Van Ness Feldman attorneys and government professionals have a deep understanding of both the nuances of policymaking and the renewable energy industry. Our team of professionals is active in representing our clients' various interests with respect to the renewable energy sector, including:

- Investment tax credits
- Production Tax Credits
- Development of interconnection and reliability standards for renewable energy
- Greenhouse Gas Emissions and Renewable Portfolio Standards.

Tax Legislation Concerning Renewable Generation

The firm focuses in representing clients before congressional and Executive Branch bodies by advocating for appropriations, tax incentives and funding to support the development and demonstration of advanced technologies.

For example, the firm was integrally involved in the development and extensions of the Section 45 production tax credit for renewables, including wind, clean renewable energy bonds, energy efficiency issues, and a multitude of clean coal provisions in the Energy Policy Act of 2005.

Working closely with our clients, Van Ness Feldman strives to ensure that environmental and other regulatory goals can be achieved through cost effective technological innovation, flexibility, and voluntary partnerships.

The firm also helps to shape private sector initiatives and provides strategic counsel on how best to advocate technology-based solutions before federal and state agencies, Congress and local governments.

Representative Projects

Recent examples of renewable generation projects for which the firm provided complete project development advice from conception to operation include:

- A 45-turbine, 74.25 MW capacity wind farm in Oklahoma
- An 84-turbine, 151 MW capacity wind farm in Oklahoma
- A 185-turbine, 231 MW capacity wind farm in New York
- A 55-turbine, 90.75 MW capacity wind farm in New York
- A 100 MW capacity wind farm in Minnesota
- A 120-turbine, 198 MW capacity wind farm in Illinois
- A 7-turbine, 11.5 MW capacity wind farm in New York
- A 100-turbine, 200 MW capacity wind farm in Texas
- A 120-turbine, 200 MW capacity wind farm in Illinois
- A 105 MW capacity wind farm in Oregon.

Other renewable energy project experience includes:

- Handling FERC issues and filings in connection with acquisition of passive beneficial ownership interest in 38 MW biomass generation facility and ownership interest in the jurisdictional operator of the facility.
- Representing a U.S. investment bank as owner of a renewable energy developer in the sale of the developer to a European electric utility. The firm advised on regulatory due diligence and other transactional issues, and continues to represent the developer in its project development activities.

- Working with several leading developers of wind, solar and geothermal generation projects to consider joint ventures with Indian tribes for location of generation facilities on tribal lands.
- Directing and completing comprehensive transaction due diligence - including review of all land use and environmental permits, NEPA compliance, transmission facilities and agreements, contracts including turbine supply agreements, environmental and hazardous assessments, operations and maintenance agreements, corporate documents, and related issues - on behalf of Southern California power utilities for several wind and hydro development projects in the Northwest worth approximately \$2 billion with a production capacity of over 700 MW.
- Assisting in a series of transactions between two leading renewable energy project developers whereby an affiliate of one of the developers will acquire interests in eighteen geothermal, wind and solar renewable power generation projects with an installed capacity of 824 megawatts from the other developer.