

Energy & Utilities

California's energy market is one of the most complex and dynamic in the world, powering the world's fifth-largest economy and routinely serving as a proving ground for emerging energy technologies.

Downey Brand's attorneys have a wealth of experience representing clients in all aspects of **energy development**: renewable and conventional generation; transmission; energy storage; and procurement. In the renewable energy sector, our law firm has experience advising the owners, developers, and purchasers of solar thermal, small- and utility-scale solar photovoltaic, wind, geothermal, biomass, and hydroelectric resources. In the conventional energy sector, we represent clients that own and operate crude and refined petroleum production and transportation facilities, natural gas storage and transmission facilities, and gas-fired generation plants.

Energy Project Permitting and Development

Our attorneys advocate for all necessary permits and approvals for energy infrastructure in California. We obtain the necessary entitlements for project siting, conduct environmental and title due diligence, facilitate land purchase and financing, and navigate local and state agency approval processes. We routinely advise clients in the preparation of applications, negotiation of conditions, and establishment of compliance programs for permits issued pursuant to CEQA, NEPA, the Clean Air Act, the Clean Water Act, California's Porter-Cologne Water Quality Control Act, and the Endangered Species Act, among others. Our attorneys have in-depth experience advising clients on interconnection agreements and power purchase agreements, as well as helping clients navigate California's Cap-and-Trade program and greenhouse gas reporting system. And, when necessary, we litigate environmental challenges in state and federal courts.

Energy Regulatory Proceedings

Firm attorneys routinely represent clients in a wide array of regulatory proceedings at the California Public Utilities Commission, as well as in matters before the California Energy Commission, the California Independent System Operator, and the California Air Resources Board and other air quality agencies. Our attorneys have extensive experience with regulated utility ratemaking, utility certification, energy market design policy and mechanics, procurement obligations for reliability and renewable resources, purchase and sale of utility assets, power plant decommissioning, wildfire safety and mitigation, and market incentives and regulatory requirements for cogeneration, energy storage, demand response, energy efficiency, and renewable energy. Our team also advises on Renewables Portfolio Standard certification and air quality compliance.

Energy Contracts

Our lawyers negotiate a broad spectrum of energy-related contracts. We negotiate leases on behalf of both producers and landowners for oil, gas, and geothermal resources. We assist clients with power purchase agreements and interconnection agreements, and we advise clients on California regulatory issues for energy project financing.

Selected Experience

Renewable Generation Projects

- Represented several lenders in connection with all real estate aspects of financings secured by solar and wind generation projects located in California.
- Represented NextEra Energy in providing regulatory review of tariffs, power purchase agreements, environmental permitting, and transactional documents in connection with the sale of the Shaffer Solar and Adelanto I and II solar projects.
- Obtained the first Renewables Portfolio Standard certification for an out-of-country generation facility.
- Advised a public water and energy agency on an EIR for a 200 MW photovoltaic solar farm located in Southern Owens Valley.
- Land use and environmental due diligence for transmission (gen-tie) line, high voltage substation, and 60-turbine wind energy generation project (252 MW).
- Represented two utility-scale solar developers in rehearing before the California Public Utilities Commission on CEQA compliance for the El Dorado/Ivanpah Transmission Project, a project to install a new substation and transmission line upgrades in San Bernardino County.
- Secured retroactive eligibility for several months' worth of Renewable Energy Credits for three solar projects.
- Advised a large automaker regarding the use of landfill gas to generate energy and to power boilers at several manufacturing facilities. This representation also involved representing a coalition of auto manufacturers in EPA's development of National Emission Standards for Hazardous Air Pollutants for Boilers.
- Advised a purchaser of grid-scale solar photovoltaic projects and prepared an analysis of regulatory and permitting risks of more than 30 solar facilities.
- Performed a due diligence analysis of regulatory issues for the financing of several large energy storage facilities.

Traditional Generation and Energy Resources

- Represented Wild Goose Storage, LLP in obtaining the first certificate of public convenience and necessity for an independent natural gas storage provider in California and three subsequent approvals for expansions of that facility.
- Represented PacifiCorp in the sale of its Deer Creek Mine assets, obtaining authorization for the sale of the assets.
- Advised clients on compliance with Pipeline and Hazardous Materials Safety Administration (PHMSA) and California State Fire Marshal pipeline safety and spill response planning requirements. Land use, environmental, and real estate entitlements and permitting work to support replacement of oil transmission pipeline over three counties and private, state, and federal lands.
- Land use and environmental due diligence for a 240-megawatt natural gas-fired combustion gas turbine electrical power generating plant.
- Negotiated a significant reduction in gas transportation rates for a large gas-fired generator.

- Provided regulatory advice and representation for the developer of two large upgrades to the California electric transmission system.

Air Quality Compliance

- Advised energy clients on successful applications for air permits for new equipment including generators, and compost operations and digesters. These complex permit applications include review of best Available Control Technology, New Source Review (NSR), and Prevention of Significant Deterioration (PSD) requirements, modeling, emission reduction credits, and offsets.
- Advised an operator of a cogeneration facility on air permit amendments and compliance issues for a gas-fired turbine. Assisted clients with acquiring air permits for installation of gas turbines at peaker plants in California. The work involved advocating for Best Available Control Technology determinations regarding greenhouse gas emissions.
- Advised energy clients on the mechanics of and obligations under Cap-and-Trade, following its implementation.
- Developed an overarching greenhouse gas emissions analysis and mitigation strategy for an oil and gas extraction project.

Representative Litigation

- Led legal team in advising and defending power facility owners and operating partner in enforcement action filed by Circuit Prosecutor for alleged discharge and placement of material into wetlands
- Defended a biomass power facility against enforcement action by county air pollution control district alleging hundreds of violations of county, state, and federal air quality regulations and permit requirements.
- Represented an energy company in CAA enforcement action by the United States Environmental Protection Agency, alleging five years of violations at a central valley biomass power plant.
- Represented a petroleum company in parallel state and federal enforcement actions involving the release of thousands of barrels of oil from an oil pipeline in the Los Angeles Region. The matter involved claims under the Clean Water Act and California Fish & Game Code, as well as claims of Unfair Competition under Business & Professions Code 17200.
- Represented a major oil company in connection with extensive remediation matters for terminals, including related litigation regarding natural resource and development damage claims.

Trade Groups

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