

PRESENTS: Negotiating a Financeable Power Purchase Agreement for Renewable Energy

Hyatt Regency Trinidad

25 - 26 MARCH 2020

Target Audience

Managers, Legal Officers,

Presenters

Miles L. Plaskett focuses his practice on corporate, municipal and project finance, with an emphasis on renewable energy, infrastructure and development projects in the U.S., the U.S. Virgin Islands, the Caribbean and Latin America. Mr. Plaskett represents corporate, municipal, utilities and private and sovereign investor and sponsor clients. He is also a member of the firm's Cuba Business Group.

Mr. Plaskett is a member of the American Bar Association and the National Association of Bond Lawyers. He is a 1988 graduate of Georgetown University Law Center and a graduate of Georgetown University.

Phyllis J. Kessler practices in the area of energy law, with a focus on the provision of electricity and gas through alternative sources, representing both providers and customers for energy services, and energy efficiency. She is a member of the American and New Jersey bar associations and the Association of the Bar of the City of New York. Ms Kessler is a graduate of New York University School of Law, where she won the American Jurisprudence Award, and a graduate of the University of Wisconsin with a B.A. in Mathematics.

Patrick L. Morand practices in the area of energy regulatory law and renewable energy development. Mr. Morand counsels energy clients, including electric utilities, electric distribution companies, regional transmission organisations (RTSs), renewable energy developers and financial institutions before the Federal Energy Regulatory Commission (FERC) state public policy commissions and other federal and state agencies. Mr. Morand is a graduate of the Catholic University of America, Columbus School of Law and a graduate of Michigan State University.

Duane Morris LLP, a law firm with more than 750 attorneys in offices across the United States and internationally, is asked by a broad array of clients to provide innovative solutions to today's legal and business challenges.

Goals and Objectives

The presentation will address the necessary steps and requirements in preparing for and negotiating a viable power purchase agreement ('PPA'). The presentation will examine the key issues in the PPA from the perspectives of the developer, counsel and utility company. Whether the utility is considering solar, wind, biomass, renewable natural gas or other forms of distributed energy, the key legal agreement between the parties is the PPA, which forms the foundation of the agreement for the developer to provide energy and the utility to procure that power.

These are agreements that often last 15 to 25 years and need to provide a clear recitation of the parties' legal obligations, but also provide a measure of flexibility to account for likely changes to the regulations, environment and parties over that timeframe. The utility and its leadership team negotiating PPAs must understand the key terms geared to different renewable energy sources as well as responding to changes in the law and market pressures. We will discuss these key terms, adapting the PPA to each type of renewable energy, as well as strategies for effectively negotiating the agreement.

Course Agenda

- **Should the utility issue and RFP?**
- **Who owns the equipment**
- **Who constructs the plant and how long will it take?**
- **How is the equipment maintained and is it removed at the end of the term?**
- **What happens if there is damage or other casualty event?**
- **How does insurance respond to distributed energy systems/**
- **What key provisions are required to facilitate financing for the developer?**
- **What primary protections should the utility insist upon?**
- **What approaches can parties use to allocate risks and benefits in the long-term contract?**
- **What are the features of different types of renewable energy that must be considered when negotiating the PPA?**

OTHER KEY ISSUES TO BE DISCUSSED

- **Regulatory Framework**
- **Diligence**
- **Negotiating the Power Purchase Agreement**
- **Financeability of the PPA**

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