



Energy



An Exciting New Era for Energy

► **Daniel Lynch and Matthew Kapinos, partners with Akin Gump, have extensive experience in the renewable energy space, ranging from regulatory law to infrastructure. Here, they discuss what the future of this rapidly evolving industry holds.**

CCBJ: With the recent shift from Trump to the Biden administration, what do you anticipate happening in the renewable energy sector?

Matthew Kapinos: I see it accelerating even more. During the Trump administration, there were a significant number of renewable generation projects and renewable initiatives that went forward. There did not appear to be any retreat or movement away from renewables, which goes to show not only how popular they are, but also how economically worthwhile these projects are to many. People want renewable energy. It's not a fad anymore. The technology is significantly improved.

It's way more efficient and cheaper. Under the Biden administration, there is no reason for that to change; if anything, the activity in the renewable energy sector will increase.

There are a couple of reasons for this. Certainly the Biden administration is not going to do anything to oppose any renewable projects, initiatives, or advances. In fact, President Biden has said that he's looking to triple the amount of off-shore wind that is currently in development. On a state level, more and more states are trying to increase the percentage of the electricity required to be provided by renewable sources at the expense of traditionally fossil-fuel generation.

In addition, with a Democratic controlled government, we will probably start to see more regulatory and other influences to help accelerate the energy transition. This will be in addition to the social pressure you're seeing right now to pressure companies into becoming good corporate citizens. I also think that a number of large companies that

Increased corporate ESG priorities will propel the renewable energy market forward.

know how to do energy and infrastructure projects are now applying their resources and skill sets toward renewable generation or investment in carbon capture, renewable diesel, renewable natural gas, or biomethane. And that's just going to continue to accelerate. Dan, what do you think?

Daniel Lynch: The renewable energy sector during the Trump Administration continued to be good. This is, in part, due to the fact that Republican support for renewables does exist and the industry has gained a momentum of its own. There are a lot of renewable activities in states with Republican senators. So that helps act as a bulwark against having a retreat from the renewable energy sector. And now with Biden it's a great outlook, because it's a stated focus for his administration.

What changes, if any, do you expect in the regulatory landscape?

Lynch: Short term, I think a one-word response would be "capacity." There are many different angles to capacity within the regulatory landscape. One angle is how battery storage contributes to capacity. Additional capacity will be needed for certain areas due to increased demand through population growth or other changes. Your choices include: "Do we build an upgraded or new transmission line to that area?" or "Does the State Regulatory Authority require local capacity support in that new area?" More and more the latter makes the most sense, meaning that battery storage projects are being placed (or will be placed) within

an area to offset or delay the need for upgrading transmission lines or building new transmission lines, which are extremely expensive.

Also, when we talk about capacity, in Texas for instance, there isn't a capacity market. That might be something that will be discussed, if not changed, in Texas. And there are other jurisdictions that don't quite have capacity markets either.

Kapinos: The weather events earlier this year certainly focused a lot of attention on what happened in Texas – a market with much less regulatory oversight than in other parts of the country. As a result, I think you'll see regulators in Texas attempt to figure out how this happened and to focus on winterization and other market incentives to make sure that this type of event does not happen again. I think that we'll also see a much more active regulatory regime on the federal level to really start focusing on reducing carbon emissions, perhaps by using broader interpretation of the regulations to effect the regulatory initiatives of the Biden Administration.

This could be a challenge, as there are many places in the country that are not 100 percent conducive to renewable energy where it simply may make more sense to build gas or to keep a traditional gas plant or even a coal plant on line for a little bit longer; especially in places where the transmission system cannot support the renewable facilities that some want to develop. In any case, I believe that state and federal regulatory agencies are going to be much more active in forcing the reduction in carbon emissions.

What areas within the renewable energy space do you expect to thrive? What opportunities do you anticipate?

Kapinos: As I mentioned previously, I believe there are going to be numerous technologies that are all related

to renewable energy or energy transition really start to grow and mature. It's not just going to be a wind and solar world; we're going to look holistically and see what can we do to reduce all of our carbon emissions and see what possibilities may exist in hydrogen, carbon capture, or other "blue"-type processes. We're going to see all industries looking at ways to be greener, and it's going to be much more widespread than just solar panels on every building.

Lynch: Batteries are the future. In fact, they're pretty mainstream already. If you're doing a renewable project, everyone at least thinks about including a battery with it. That ameliorates the issue of renewables being intermittent resources. You can have more reliable power coming from the renewable energy system if you're able to charge a battery during those intermittent stages. It's not completely one to one, but it does increase the capacity factor with batteries.

Also, piggybacking on what Matt said, carbon sequestration will start to become more important. There will be a drive for corporates to start thinking about not only whether they are 100 percent renewable but also what kind of carbon impact they are having with their renewable projects.

Kapinos: I'd like to mention the enforcement and regulatory landscape briefly as well. People are going to be talking more and more about some sort of additional regulatory regime to incentivize all this. What that looks like will depend a lot on the next couple of election cycles, but some sort of additional incentive will likely be necessary at some point to really solidify the "energy in transition" movement.

What are financial institutions doing to plan for mergers, acquisitions, project finance, etc., in this space?

Lynch: Financial institutions are focusing on their exposures to a particular market with respect to their project

finance and tax equity investments. That's what they're more directly involved in, so they're looking at that.

In terms of the broader market, I think you'll be seeing more market participants involved in purchasing operational projects. Overall, operational renewable energy projects are pretty safe investments. There will be entities that are looking to gather that revenue stream, and you'll see more organizations looking at the U.S. renewable energy market for those opportunities.

Kapinos: It seems to me that there is a bit of concern that there's a renewable energy bubble out there. It seems like there's a mad rush to get into the renewable space, but not everyone's going to succeed and hit it out of the park and have a great project or a great experience. At some point, perhaps a few years from now, there could be some consolidation in the renewable space.

I also think that financial institutions that were previously very heavily invested in oil and gas, for example, are trying to figure out "OK, what is adjacent to the renewable market that we can invest in that supports the energy transition, but does not require us to completely abandon our core competencies or business structure/purpose." Say you did services for downhole oil and gas, and now there's not a whole bunch of new domestic oil and gas exploration going on, but there are definitely people who want to put carbon into the ground. These financial institutions are wondering, "How do we get into that space? How can we transition to the geothermal space?"

There are massive companies that have done very well without significant involvement in the renewable or energy in transition space, but they have very smart people who

are very good businessmen and very good engineers, people who can figure out how infrastructure projects work, how to invest money, and how to build projects and get on a return on capital invested and deployed. Those are the companies right now that are starting to look at hydrogen, carbon capture, battery storage, etc. And banks and other lenders, as well as investment funds, are looking at ways to partner with those types of companies to pursue these projects.

How has the recent focus on ESG (environmental, social, and corporate governance) impacted this industry?

Kapinos: You're seeing a whole lot more corporations getting into the renewable power purchase agreement (PPA) space and wanting to be a part of the Green Power Movement. You're also seeing companies that don't really have a desire to get into renewable energy – not because they don't believe in it or don't think it's a good idea, but just because it's not part of their core competencies. But those companies are still going to have to figure out the point we were discussing earlier, which is how do we become more carbon neutral? How do we get to net zero? What can we be part of?

I do not think there will be a single solution, but companies will start looking at everything. Every company is going to want to figure out how to have good ESG characteristics and a good ESG grade; if for no other reason to avoid having embarrassment of the lights on (even if it's not a company's fault) in their office building when the grid manager is attempting to reduce the load and conserve energy. And that naturally will lead to increased investment in opportunities for renewable power and other renewable activities.

Lynch: Just to add to that, the corporate ESG focus and all of these corporations that you see announcing, "Hey, we're going to 100 percent renewable energy," that just propels the market forward. There was a decline in the amount of utility PPAs that were available for renewable energy projects, and a lot of times the corporates were the ones that came into that void and provided the offtake arrangements for those projects. And the ESG impact is helping to propel the industry even further forward. So it's great from my perspective, because it really helps the industry, which really provides a net good for society. The next steps for ESG in this space appear to be carbon and the focus on low carbon impact activities. ■



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