

Japan Boosts Global Energy Game Post-Fukushima

By Keith Goldberg

Law360, New York (May 15, 2013, 7:32 PM ET) -- The devastation of Japan's nuclear power industry following the Fukushima disaster has fueled the country's appetite for alternate energy sources such as renewables and liquefied natural gas, creating a wealth of opportunities for global energy developers to find new investors, new project partners and new customers.

With few energy resources of its own, Japan has historically been a major energy importer. Still, when a March 2011 earthquake and tsunami crippled the Fukushima nuclear plant and led to the shutdown of the country's nuclear reactors, it wiped out more than a quarter of country's energy sources. The disaster has also cast major doubt over the Japanese government's plans to eventually have nuclear make up more than 40 percent of the country's energy sources, as nearly all of Japan's 54 nuclear plants remain offline.

Japan is leaving few stones unturned in its quest to satisfy its energy needs post-Fukushima, from implementing tariffs designed to spur renewable project development at home to securing LNG supplies through investment in development and export projects in the U.S., Australia and elsewhere. As a result, the country has injected additional life into a global energy project market still recovering from the financial crisis, attorneys say.

"The good news is that there are a lot more projects available for investment than there were a few years ago," David Asmus, who leads Morgan Lewis & Bockius LLP's energy transactions practice, told Law360. "The increased investment from Japan has boosted the amount of funding that's available for energy projects."

The Push Toward Renewables

While it's still uncertain how many nuclear reactors in Japan will be able to restart, it's pretty clear that the use of nuclear power will decrease from pre-Fukushima levels and renewable use will increase, says Arthur Mitchell, the former general counsel for the Asian Development Bank who is currently a Tokyo-based senior counselor at White & Case LLP.

Much of that change is thanks to the Japanese government, which introduced a feed-in tariff program in July that requires utilities to buy power from renewable energy projects at above-market rates. That's spurred scores of new solar projects in the country, such as the **construction** of a 70-megawatt solar farm on the southern island of Kyushu backed by electronics firm Kyocera Corp., industrial manufacturer IHI Group and Mizuho Corporate Bank Ltd., as well as the **building** of five mega-solar power facilities on the island of Hokkaido that will have a combined generation capacity of roughly 5.5 megawatts, which project operator Japan Asia Group Ltd. says will be online later this year.

Mitchell expects the tariff will fuel interest in both onshore and offshore wind this year, while K&L Gates LLP Tokyo-based partner Naoki Watanabe says some developers are starting to mull hydropower projects as well.

"Being one of the first Asian countries to introduce the sophisticated feed-in tariff system, Japan should have a strong appetite for the new projects involving renewable energy," Watanabe told Law360 in an email.

Mitchell said Japan's deregulation of its electric industry would further spur renewable development, citing planned regulations that include requiring utilities to share power in emergencies, allowing new entrants in retail sales and the unbundling of distribution and transmission.

"Already in the renewables area, we are seeing new entrants at the generation level and this will continue," Mitchell said in an email.

There's a financial incentive for Japan to encourage domestic renewable development, as well. Most of its imported energy sources are priced in dollars, and the Japanese yen has been losing value against the dollar, making energy imports a lot costlier, attorneys say.

"Being dependent on the imported resources to generate electricity, Japan is in a rather insecure position, and this motivates Japan to look for alternative sources," Watanabe said.

A Global Pursuit of LNG

Renewables can only fill part of the energy void left by Fukushima, meaning Japan will still have to rely heavily on imported sources of traditional fuel, especially in the near term. And the biggest foreign fuel source is and will be LNG, attorneys say.

"The amount of investment we're seeing the Japanese energy and trading companies make outside the country is just astonishing," Akin Gump Strauss Hauer & Feld LLP partner Steve Davis told Law360. "The Japanese energy and trading companies have been scouring the globe looking for LNG-related opportunities — I see nothing that's going to slow that down."

They've done so with the backing of their government, including the Japan Bank for International Cooperation, which has encouraged Japanese firms to invest in projects that they back with low-cost, long-term funding.

That's included **agreeing** in February to provide a \$600 million loan to fund Inpex Corp.'s 17.5 percent farm-in to Royal Dutch Shell PLC's Prelude floating liquefied natural gas project off the Australia coast and **inking** a long-term memorandum of understanding in October with Woodside Petroleum Ltd., Australia's largest independent energy company, for a strategic partnership on LNG projects in October.

The JBIC's backing has made Japanese companies more attractive investors for energy projects, according to Asmus.

"The availability of secure long-term funding in this environment is fairly attractive — ever since the credit crunch, the project finance arena has been more challenging," he said.

Japanese firms are also banking on proposed LNG projects in the gas-rich U.S. Last month, Japanese firm Sumitomo Corp. **inked** a 20-year supply agreement for half the LNG that Dominion Resources Inc. will produce from a planned \$3.8 billion natural gas liquefaction project in Maryland. Sumitomo will then sell the LNG to Japanese power companies Tokyo Gas Co. and Kansai Electric Power Co.

However, LNG exports to Japan, which doesn't have a free-trade agreement with the U.S., require approval from the U.S. Department of Energy, which is currently mulling several export license applications amid political pressure both for and against exports.

"The Japanese government is clearly interested in shaking those licenses loose and getting the projects underway," Asmus said.

The Regional Battle for Resources

Japan's increased thirst for LNG post-Fukushima has also ramped up its competition for global fuel sources with its energy-hungry Asian neighbors, most notably China, South Korea and India, attorneys say.

Even the regulatory uncertainty surrounding U.S. LNG exports hasn't prevented countries like India and South Korea from competing aggressively with Japan for access to U.S. gas resources. The other half of the Dominion liquefaction project's LNG production was snapped up by GAIL Ltd., India's largest natural gas processing and distribution company.

"These consumer countries — they're growing and they need energy," Davis said. "Japan is less so, but you can immediately see they have a lot of energy needs to cover and they're aggressively going about doing it."

Asmus believes that Japanese companies are bidding on some energy projects that they might not have decided to pursue a few years ago, which is only good news for project developers in search of partners, customers or cash.

"With a number of Japanese companies looking to invest, there are more total players looking to participate in those projects, and that's a boost to project developers," Asmus said.

--Additional reporting by Jake Simpson and Liz Hoffman. Editing by Elizabeth Bowen and Chris Yates.

All Content © 2003-2013, Portfolio Media, Inc.