

2010 ENERGY

First-Quarter Update



LATEST ACCOLADES

CHAMBERS USA 2010

- Our energy practice, for the first time, moved from a Texas ranking to a national ranking.



Chris B. LaFollette



James L. Rice III



Shar Ahmed

- Houston office partner in charge Christine B. LaFollette was ranked by *Chambers* as a top corporate and securities lawyer as well as a top energy and natural resources lawyer.
- Energy and global transactions leader James Rice was ranked by *Chambers* as a top energy and natural resources lawyer.
- Counsel Shar Ahmed was also recognized as an up-and-comer as a corporate lawyer.

LEGAL 500 EUROPE, MIDDLE EAST AND AFRICA (EMEA) 2010



Natalia R. Baratiants



Douglas B. Glass



Richard J. Wilkie

- Our energy and natural resources practice in the region was recognized with a first-tier ranking.

“Akin Gump Strauss Hauer & Feld LLP is well-known for its M&A-related energy expertise and for its strong client relationship with oil giant Lukoil. Richard Wilkie, Natalia Baratiants and Douglas Glass are recommended.”

— Legal 500 EMEA

- Our corporate and M&A practice in Moscow was ranked as a top practice.

Dear Clients and Friends:

MERGERS AND ACQUISITIONS ON THE RISE

We are seeing an increase in M&A activity. Certainly shale gas has kept us busy, but we have also handled cross-border and midstream deals, as well as a big power merger.

You will also see that our footprint in renewable energy continues to grow with the arrival of Bob Nelson to our San Francisco office. He is heavily involved in the emergence of solar power—especially in projects in India. We hope to host a gathering for clients and friends of the firm to meet Bob when he comes to our Houston office later in the business quarter, and we look forward to seeing many of you at that gathering.

EUROPEAN SHALE IN PLAY

Shale gas has recently transformed the U.S. natural gas market and may be set to change the game in Europe as well. Shale gas was the “game changer” that allowed the United States to overtake Russia in terms of overall gas production in 2009.

Please do not miss “Shale Gas Comes to Europe – Another ‘Game Changer’?” starting on page eight of this review, which has been contributed by our London energy partners Doug Glass and Greg Hammond. They provide some great insights into the opportunities and challenges for shale plays in Europe.

NEW OFFICE OPENING IN GENEVA

Akin Gump will open an office in Geneva, Switzerland, on May 1, 2010, expanding our international footprint further into Western Europe. Charles C. Adams Jr. will head the Geneva office and will be joined by partners Jonathan Ivinson and Michael J. Stepek and four other lawyers. Our new office will be located at 3, rue François Bellot, 1206 Geneva, Switzerland.

The team has extensive experience in the prosecution and defense of major claims brought in international arbitrations; international civil litigation matters before various national and international courts and institutions; corporate and commercial law; IP; and tax optimization for multinational corporations. The Geneva team has experience in the oil, gas and power sectors, and we look forward to introducing you to these great new additions to our international network.

— The Energy Team

MERGERS AND ACQUISITIONS

CONSOL ENERGY GRABS A LEADING POSITION IN THE MARCELLUS SHALE

An Akin Gump team led by Jim Rice is representing CONSOL Energy Inc. in its \$3.48 billion acquisition of the Appalachian exploration and production business of Dominion Resources Inc. The transaction includes the rights to roughly 491,000 acres in the Marcellus Shale, nearly tripling CONSOL Energy's position in the formation.

“Not only is our Appalachian footprint growing wider with this transaction, but more importantly, it is growing deeper as we substantially increase our opportunities to extract incremental value through stacked pay zones of surface assets, coal, coal bed methane, shale gas, and conventional gas assets.”

— J. Brett Harvey, president and CEO of CONSOL Energy

Anadarko Petroleum Corporation

- Represented the company in its \$1.4 billion joint venture agreement with Mitsui E&P USA to give it a 32.5 percent interest in Anadarko's Marcellus shale assets in Pennsylvania.
- Advised the company in its \$245 million sale of certain midstream assets in southwest Wyoming to Western Gas Partners, LP.

Bridas Corporation

- Represented Bridas, controlled by the Bulgheroni family, in its disposal of 50 percent of Bridas Energy to CNOOC Ltd. for a consideration of \$3.1 billion.
- The deal is structured as an oil and gas production joint venture: The Beijing-based oil company and Bridas Energy Holdings will each hold a 50 percent stake in exploration and production activities in Argentina, Bolivia and Chile.

Capital Product Partners, LP

- Advised the company in the \$43 million acquisition of M/T Atrotos from Capital Maritime with the proceeds from a recent public offering of limited partnership interests.

FirstEnergy and Allegheny Will Serve Six Million Customers

- An Akin Gump team led by Rick Burdick is advising FirstEnergy Corp in its merger with Allegheny Energy, Inc. The companies will combine in a stock-for-stock transaction valued at \$8.5 billion, creating a leading regional energy provider with approximately \$16 billion in annual revenues and \$1.4 billion in annual net income.

“This combination supports our strategy of being a leading regional energy provider, focused on both regulated utility operations and our competitive generation business. . . . Simply put, it provides a far better platform for growth than either company would have been capable of achieving on a stand-alone basis.”

—Anthony J. Alexander, president and chief executive officer of FirstEnergy

El Paso Pipeline Partners LP

- Representing the company in an \$810 million purchase from El Paso Corp of a 51 percent interest in both Southern LNG Company L.L.C. and El Paso Elba Express Company L.L.C. El Paso will continue to own the remaining interests of each company.

Enterprise Products Partners L.P.

- Advising the partnership in its agreement to purchase, for \$1.3 billion, two natural gas gathering and treating systems from M2 Midstream LLC.

FirstEnergy Generation Corp.

- Advised the company in the sale of its Sumpter power project to Wolverine Power Supply Cooperative for an undisclosed amount.

Genesis Energy, LP

- Represented the company in the \$100 million acquisition, by an affiliate of Quintana Capital Group, of Class A membership interests in Genesis Energy’s GP from Denbury Resources, Inc.

IFD Kapital

- Advised an affiliate of IFD Kapital regarding the acquisition of international deepwater oil and gas acreage and offshore licenses for an undisclosed amount.

CAPITAL MARKETS

LENDING TRANSACTIONS

- Baker Hughes in a \$1.2 billion revolving credit facility.
- Bill Barrett Corporation in a \$70 million third amended and restated credit facility.
- OAO Lukoil in a \$1.2 billion amended pre-export financing.
- Ohio Edison, a FirstEnergy affiliate, in a \$47 million letter of credit reimbursement agreement to support sale leaseback arrangements.

SECURITIES TRANSACTIONS

- Anadarko Petroleum Corporation in a \$750 million registered offering of 6.2 percent senior notes offering due 2040.
- Anadarko Petroleum Corporation in a \$1 billion cash tender offer for multiple series of outstanding notes.
- Genesis Energy, LP in a \$128 million secondary offering of common units held by Denbury Resources, Inc. and James E. Davison.
- Quantum Partners, Ltd in a \$75 million purchase of shares in a registered offering by NovaGold Resources, Inc.

RENEWABLE ENERGY NEWS

LOOKING TO THE EAST AND INTO THE SUN

In a recent report titled, “Who’s Winning the Clean Energy Race? Growth, Competition and Opportunity in the World’s Largest Economies,” based on G-20 nation data collected by Bloomberg New Energy Finance, it was confirmed that, for the first time, in 2009, China’s investments in renewable energy exceeded those made by the United States.

India is engaged in a vast expansion of power infrastructure to drive its rapidly growing economy and aid its 1.14 billion population, more than half of whom do not have access to electricity. Over \$500 billion of investment is required, much of which is expected to come from the private sector. As part of this effort, under the Jawaharlal Nehru National Solar Mission, India is seeking to increase its solar power generation capacity from near zero today to 20,000 megawatts by 2022.

Our Recent Experience

Akin Gump has been in the forefront of India’s recent move into renewable energy, working with international and Indian companies and financing institutions on a variety of renewable energy projects. They include the following projects—

- working with Sener, a Spanish company that is one of the world’s leading solar thermal technology groups; Thyssen Krupp Uhde; and Indian parties on the development of a series of utility/scale concentrating solar power (CSP) solar thermal power projects in India
- representing a group of private equity investors, Thyssen Krupp Uhde, Magellan Orenda and a large Indian company, on the development of a series of distributed 1.2MW–2.4MW biomass/biofuels projects designed to bring electricity to villages in India that are currently off the grid
- working with Mahindra & Mahindra of India on the development of its new solar PV group, which intends to develop substantial amounts of on-grid and off-grid capacity.

In Europe, we recently helped a major infrastructure fund client place a bid for a solar thermal/CSP project under development in Spain and also helped it in connection with a contemplated joint venture for solar activities in Spain and Portugal. We have been active in a solar project in Bulgaria as well.



ROBERT L. NELSON, JR.
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Bob Nelson was recently tapped to lead the US-India Business Council’s Green India renewable energy mission to India, which involved a series of meetings with high-level government officials in New Delhi and key Indian business and financial leaders.

SHALE GAS COMES TO EUROPE – ANOTHER “GAME CHANGER”?

The presence of natural gas in shale seams has been known to oil companies for decades; in fact, the first commercial gas well drilled in the United States in 1821 was a shale gas well. Historically, gas from shale seams has been dismissed as difficult to extract and too expensive, but increases in oil and gas prices in recent years have forced the development of new technologies, with the result that shale gas is currently causing a revolution in the gas fields of North America.

IMPACT ON GLOBAL GAS SUPPLY AND DEMAND

The impact of the shale gas revolution is already being felt around the world, and its influence on global gas supply and demand is currently changing the shape of the industry.

One result is that the development of shale gas has had a major impact on LNG imports into the United States. The Sabine Pass LNG terminal on the Texas-Louisiana border was built at a cost of \$1.5 billion as a vital new component of America’s energy infrastructure. Tankers from Qatar and other LNG-producing countries were expected to dock at the on-site receiving terminal in order to supply LNG straight into the U.S. domestic gas network. Although the Sabine Pass terminal has the capacity to receive one shipment per day, in the space of two years, only 10 ships have docked. America’s eight other LNG import terminals have been similarly affected by the shale gas revolution, as they are running at only 10 percent of capacity.

ENVIRONMENTAL IMPACT

Although natural gas is the cleanest-burning of the fossil fuels (it emits less carbon dioxide than oil and coal), environmental concerns have been raised surrounding the method of extraction of shale gas, particularly the possible environmental impact of hydraulic-fracturing on fresh water supplies. The U.S. Environmental Protection Agency (EPA) has begun an extensive examination of hydraulic-fracturing. Since the technique uses considerable quantities of chemicals mixed with water, this often requires the chemical-water mix to be held in ponds at ground level until removed by tanker or re-injected into the earth. Some hold the view that the fracking mixture, once injected, can seep into the fresh water table underground. Environmentalists allege that this may, in turn, have an impact on ground and surface water quality, threatening the environment and human health.

The potential environmental impact of hydraulic-fracturing is currently being debated within the U.S. Senate’s climate and energy bill.

According to recent reports, the latest draft of the U. S. Senate's climate and energy bill seeks to exclude regulation of this technique by the EPA. A further discussion draft proposed by BP and two other energy companies provides that regulation would be the responsibility of the individual states. This discussion draft also recommends against publication of the chemicals used in the fracturing fluid as this would constitute disclosure of "trade secret information." We are closely monitoring the status of this discussion through our colleagues in our Washington, D.C. office and will issue client alerts when significant decisions are finalized.

Even though similar methods of extraction have been used for decades in the United States, historically, there were few concerns surrounding the environmental impact, as the sites had been located in unpopulated areas. However, as sites have moved closer to heavily populated areas, environmentalists have been prompted to argue that occupiers of land alongside drill sites and above the horizontal penetration paths have a right to know what potential contaminants could affect their nearby ground water supplies.

EUROPEAN ISSUES

Not surprisingly, this explosion in North American shale gas development has triggered interest all over Europe. Even though the potential for shale gas in Europe remains uncertain, the major oil companies are keen to buy assets. By being too slow off the mark, they have had to spend billions of dollars buying assets from independent explorers. It is believed that at least 40 companies are currently looking for shale gas in Europe, with all the major oil companies being present in the market. Licenses to explore for shale gas in Sweden, Poland, Germany, France and Austria are being snapped up by the majors. Exxon-Mobil is believed to have shale gas areas in Germany and Hungary and to have applied for permits in Poland. Shell has acquired licenses in Sweden, and ConocoPhillips plans to drill its first well under an exploration agreement with Lane Energy in a shale formation cutting through Poland.

There are several issues that are specific to Europe. No two shale rock formations are ever the same. Consequently, the geological expertise built up in North America may prove not to be applicable to Europe, since the Texan and Pennsylvanian plains (for example) are geologically very different from the mountains of Central and Eastern Europe.

Similarly, a variety of legal issues arise in Europe relating to land. In the United States, the holder of the mineral rights generally has the right to use the surface of the land under which the minerals lie, with only an obligation to compensate the surface owner for any damage. However, the real estate laws in Europe are very different, more diverse, more complicated and largely untested in the shale gas context.

Generally, in Europe, mineral rights must be acquired to develop the subsoil—but a separate agreement must then be made with the person who has the surface rights before any drilling can start. In addition, due to the greater dissipation of land interests and the denser development and usage of the land, numerous such surface-right agreements are often required as a precondition to the commencement of operations.

In addition to this, a major issue facing oil companies in Europe is the greater concentration of inhabitants. Drilling shale gas requires multiple wells, which is comparatively easy in the wide open spaces of North America, but will have a greater effect on the denser population groupings in Europe in terms of health and safety and sheer practicality. Another stark logistical consideration is that, in contrast with North America, Europe currently has a far more limited supply of drilling rigs.

Finally, the concerns relating to possible environmental contamination that are currently being debated in the United States will no doubt also be strongly voiced in Europe, especially given Europe's greater and closer population groupings. While there are many factors in the U.S. shale gas industry that will be different from the European industry, one can probably assume that many similar arguments will be echoed in great detail in the EU, particularly as to whether there should be pan-European regulation of hydraulic fracturing.

THE FUTURE

There are undoubtedly hurdles that will need to be overcome before Europe's shale deposits can be exploited to the full. Although the issues are similar to those in the United States, the different geographic, demographic and regulatory landscape will present a new set of challenges. However, as in the United States, the enormous potential advantages to be gained from this new gas resource simply cannot be ignored, and, if found to be commercially viable, European shale gas may have the ability to materially transform the energy industry in Europe for decades to come. Undoubtedly, one can expect that the "first movers" and most-experienced players with the best strategy, skills, technology and advisers will prevail.



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Doug Glass' principal areas of practice are cross-border transactions, mergers and acquisitions, international law, project development and corporate finance, with a special focus on energy and EMEA matters. Mr. Glass has represented public and private companies in all phases of their domestic and international business activities for more than 30 years. He has worked on joint ventures, infrastructure projects, financings and acquisitions and dispositions for clients in a wide variety of structures and in a number of foreign countries.



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Greg Hammond represents parties in major corporate finance transactions in the United Kingdom and internationally, including M&A, private equity, capital markets and joint ventures. He regularly advises on matters relating to the oil, gas and energy sectors and earlier in his career was seconded to a global oil and gas company listed at the London Stock Exchange. He has represented governments, public and private corporations, banks and multilateral agencies.



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AKIN GUMP'S G. PHILIP NOWAK NAMED A "GROUNDBREAKING LAWYER"

G. Philip Nowak of Akin Gump Strauss Hauer & Feld LLP has been named a "Groundbreaking Lawyer" in both Mergers and Acquisitions and Litigation work by *Public Utilities Fortnightly*, an online and monthly print publication for management at utility and energy companies, consulting firms and those in the legal and financial communities who focus on the power industry.

In its "2009 Groundbreaking Law And Lawyers Report," the publication released the results of an online survey of in-house counsel at utilities, public utility commissions and trade associations to develop the first-ever hotlist of "Groundbreaking Lawyers," which includes just 35 U.S. lawyers practicing in diverse areas ranging from mergers and acquisitions and litigation to renewable energy and clean air compliance.

Mr. Nowak heads the firm's energy regulatory practice, and his experience includes—

Transactions: Representing energy companies, investment and private equity funds and electric utilities on major purchase and sale, merger and investment transactions in the electric power industry, including handling all of the regulatory due diligence and related document negotiation for those transactions and securing all required Federal Energy Regulatory Commission (FERC) and other federal and state regulatory approvals.

Advocacy: As an experienced litigator, representing clients before the FERC and in the federal and state courts in litigated proceedings involving power sales and transmission rates, including the allocation of costs and rate incentives, power purchase and sale agreements, federal and state jurisdictional issues, the establishment of energy and capacity markets, and all aspects of the restructuring and operation of the electric utility industry, including the formation of independent system operators and regional transmission organizations. Mr. Nowak also advises clients on an ongoing basis in connection with legislative and regulatory developments affecting the electric power industry.

Mr. Nowak's recent clients include Carlyle Investment Management, FirstEnergy Corp, Morgan Stanley, North American Energy Alliance and The United Illuminating Company.

Akin Gump Strauss Hauer & Feld LLP is a leading adviser to energy companies and provides a full range of legal services, including corporate transactions, project finance and development, dispute and policy insight. Our lawyers have represented every segment of the energy industry on issues ranging from energy policy to tax questions to environmental and land use challenges.

Akin Gump, a leading international law firm, numbers more than 800 lawyers with offices in 13 cities. Energy clients include public and private companies, financial institutions, private equity firms and sovereign states working across the energy value chain from independent exploration and production activity to renewable energy investment.

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