

## Update on New Uses for Utility Securitization Bonds

August 3, 2010

In recent months, we have alerted clients and friends to the possible new uses of utility securitization bonds in the face of rising capital costs related to, among other things, climate change legislation, renewable portfolio standards, and smart grid programs.<sup>1</sup> Recently, there were two offerings of securitization bonds totaling \$713 million in Louisiana, with the proceeds going to local utilities to cover costs incurred in connection with Hurricanes Gustav and Ike. The transactions are expected to save ratepayers approximately \$275 million. Although recovery of storm costs is not a new use for utility securitization bonds, the success of these transactions highlights that utility securitization bonds should be considered as a financing tool for new types of costs facing the utility industry.

Louisiana recently enacted the Louisiana Electric Investment Recovery Securitization Act which, among other things, allows utilities to issue securitization bonds to recover costs related to cancellation of construction of generating plants or transmission lines; the purchase of long-term fuel supplies and prepaid forward purchases of fuel; the production, delivery, and storage of fuel, including storage of nuclear fuel; and any other type of capital investment in excess of \$350 million approved by the public utility commission. It is this last clause that truly expands the possible uses of securitization bonds. For example, utility companies recognize that transmission development will be necessary in the future, both to connect to renewable energy projects and to fortify and expand the existing transmission grid. Transmission projects are not only expensive, but they take many years to complete. Securitization bonds may provide an opportunity for utilities to recover their costs upfront through the sale of the bonds.

Given the rising costs facing the utility industry to address climate change, develop the smart grid, comply with renewable portfolio standards, and build out the transmission grid, finding innovative ways to finance these expenditures will be crucial. We believe that other states should consider securitization legislation similar to what Louisiana has enacted.

If you have any questions or would like to discuss the possibility of securitizing costs facing your

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<sup>1</sup> See, for example, the Morgan Lewis LawFlash, “New Uses for Utility Securitization Bonds in the Absence of Traditional Rate Recovery” (March 4, 2010), *available at* [http://www.morganlewis.com/pubs/SecuritizationLF\\_TraditionalRateRecovery\\_04mar10.pdf](http://www.morganlewis.com/pubs/SecuritizationLF_TraditionalRateRecovery_04mar10.pdf).

company, the legislative process involved in drafting and adopting securitization legislation, or any other aspect of the securitization transactions discussed in this LawFlash, please contact any of the following Morgan Lewis attorneys:

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