

Project Finance Group Of The Year: Morgan Lewis

By **Morgan Conley**

Law360 (December 14, 2020, 11:11 PM EST) -- Morgan Lewis & Bockius LLP shepherded the \$1.6 billion financing of a giant natural gas power plant in Ohio as well as helped Canadian energy company ENMAX Corp. cement its presence in the U.S. energy sector by picking up a Maine utility for \$1.3 billion, earning the firm a spot among Law360's 2020 Project Finance Groups of the Year.

Morgan Lewis handles the full spectrum of project finance matters from conventional power projects to renewable energy undertakings for clients that range from large publicly held utilities to independent power producers. The firm also frequently guides lenders and private equity shops through the lending side of transactions.

The practice group includes more than 20 partners who work on project finance, infrastructure and natural resource matters. Project finance attorneys work collaboratively out of nearly all of Morgan Lewis' 31 offices worldwide, according to the firm.

Leaders of the project finance practice said the group sets itself apart from competitors through the diversity and depth of its practice as well as usually sticking with a project for its entire lifespan.

A notable achievement for the firm in 2020 was its ongoing representation of Caithness Energy LLC and initial developer Apex Power in the \$1.6 billion financing of the 1,850-megawatt Guernsey Power Station in Ohio. The firm has been involved in the project from its earliest stages.

Rick Filosa, a partner in the firm's project finance, infrastructure and natural resources practice, leads the Morgan Lewis team working on the Guernsey project. He said the deal was especially notable to him because he was able to play matchmaker between the equity and the developer by introducing Caithness Energy with a husband-and-wife team at Apex Power, Michael and Mary King.

"We were able to introduce the equity to the developer and that was a pretty significant aspect of getting that deal across the finish line," Filosa said.

Filosa's connection with the Kings goes back a long time, and he noted he is proud to be able to trace the lineage of the deal to a foundation that was laid well before the individual project itself.



Leaders of the firm said putting large deals together often requires drawing on the expertise of a large team from a range of practice areas, making the strength of the firm's other practices — including environmental, real estate, tax and regulatory — an integral component to the success of the project finance practice.

That was true for the firm's work representing ENMAX Corp. in its cross-border acquisition of Canada-based utility Emera's operations in Maine for \$1.3 billion, a deal that closed March 24, a year to the day it was announced.

Morgan Lewis partner John Klauberg, who worked on the deal, said it ran the gamut of regulatory issues since it required approval from the Maine Public Utilities Commission and the Federal Energy Regulatory Commission. The deal also had to clear U.S. antitrust laws as well as get the green light from Canadian regulators.

Being able to call upon colleagues who live and breathe regulatory issues is a game-changer in those types of situations, Klauberg said.

Emera Maine is a regulated electricity transmission and distribution utility in Maine, and the purchase was ENMAX's first in North America and part of its effort to expand into the North American market, a company spokesperson said when the deal was announced.

Klauberg said ultimately ENMAX was looking to "make a big splash" in the U.S. energy market, which is exactly what it accomplished.

The firm's notable work continued on, including guiding two different ownership groups through their sale of 100% of the indirect interests in one energy generating facility and 55% of the indirect interests in a second, neighboring generating facility located in Astoria, Queens.

Partner Michael Müller led the Morgan Lewis team that worked on the Astoria project and said it was particularly unique because the entire lifespan of the deal "threaded itself through the COVID time period" since the deal was signed in January and closed in June.

"The seller group and buyer group all obviously stayed in constant communication and worked towards getting the deal closed," Müller said.

Klauberg also noted that there was a lot of uncertainty and anxiety plaguing the energy industry at the outset of the pandemic, particularly amongst utility companies and their stakeholders as to how widespread business shutdowns in their territory would affect their bottom line. But while business energy use may have gone down, residential use spiked.

"It sorta turned out to be almost like business as usual so those projects didn't have to worry about default and things like that," he said.

All three partners said that by midway through the year, project finance actors had found their footing on how to navigate the unprecedented times. Coupled with the election being settled, they believe entering 2021 with more certainty will allow for a very busy year in the project finance space, particularly in the renewables sector, which Klauberg predicted will get a real "jumpstart" under the Biden administration.