

Project Finance Group Of The Year: Orrick

By **Ian Thoms**

Law360, New York (January 20, 2012, 4:36 PM ET) -- The project finance team at Orrick Herrington & Sutcliffe LLP secured billions of dollars in public and private financing for clients over the past 12 months, including \$2.2 billion for BrightSource Energy Inc. to pay for a landmark solar energy project in California's Mojave Desert, earning it a spot among Law360's Project Finance Groups of 2011.

The group — one of the firm's largest, with 97 lawyers based in offices around the world — found funding for several major clean energy and infrastructure projects in the U.S., Japan and elsewhere over the past year, but the Mojave Desert endeavor, dubbed the Ivanpah Solar Complex, stands out for its complexity and record-setting size.

The project, a 392-megawatt facility that BrightSource bills as the largest solar power plant under construction in the world, uses a new kind of technology to capture solar energy: huge arrays of mirrors in the California desert that shine light on receivers fixed on towers. BrightSource will sell power from the project to Pacific Gas and Electric Co. and Southern California Edison, Orrick said.

"That's a transformational deal," said Daniel A. Mathews, co-chairman of Orrick's global energy and infrastructure group. "It's where people have wanted to take solar for the past five years, but it was too expensive back then. Now we're seeing some significant investors come out for utility-scale solar projects."

With the cost of solar dropping and the reliability of the technology increasing, the Orrick team, led by partners Mark Weitzel and Eric Stephens, found major companies more willing to invest in a major renewable project than they had been in the past. For the Ivanpah Solar Complex, Google Inc. put up \$168 million, while NRG Solar LLC pledged \$300 million. BrightSource itself contributed \$115 million.

Because of the ongoing testing procedures for the technology and on-site visits for the investors, the Ivanpah negotiations stretched out a bit longer than usual, Weitzel said. Whereas solar project financing deals typically take about three months to close, Bright Source was in talks with Google for about six months, and with NRG for about a year, according to Weitzel.

While changes in the price and quality of solar technology certainly played a role in BrightSource's ability to attract well-heeled investors, it also didn't hurt that the U.S. Department of Energy had already pledged \$1.6 billion toward the project.

"That was crucial," Mathews said. "It allowed the client to fill a major hole in the financing."

While the government's influence has helped grow renewable power into a more viable alternative to traditional forms of energy, and in the process made it a major component of Orrick's financing portfolio, there is some question as to whether that support will continue, said Michael Meyers, who is the other chairman of Orrick's Energy and Infrastructure Group.

At the end of last year, the U.S. Department of Treasury's 1603 Program, which doled out \$9.6 billion to support renewable energy projects over three years, died a well-chronicled death. Many see the 2012 presidential election as a pivotal moment for renewable energy. If a Republican takes back the White House, clean energy programs may languish. A second term for President Barack Obama could mean a resurgence.

"It's going to depend on where the government comes out," Myers said. "There's a question about whether there is enough private debt capacity to finance projects of that size."

But it's not all doom and gloom on the clean energy front, Myers and other point out. Despite the 1603 program's demise, a separate federal tax incentive remains in place to try to attract private dollars to clean energy projects and many states, especially California, have mandated an increased investment in renewable energy. Also, renewable projects have started to prove themselves as viable, in-demand moneymakers.

"As a country and the world, we have energy issues," Meyers said. "We have to keep building capacity, and we have to replace existing capacity because it's grown old."

The constant need for additional energy infrastructure has landed Orrick clients around the world. Last year, Orrick, working in conjunction with Vietnamese law firm LVN & Associates, helped JAKS Resources Berhad of Malaysia secure \$2.25 billion to build multiple thermal power plants in Vietnam.

Also last year, Orrick advised Green Power Investment Corp. in a transaction aimed at kicking off the rebuilding of Japan's energy infrastructure in the wake of the devastating earthquake and tsunamis in 2011, according to the firm. Orrick worked on a deal in which Softbank Corp. became a major investor in Green Power and pledged to help finance renewable energy projects in Japan.

Meyers and Mathews credited the firm's ability to attract project finance to the skill and experience of the individuals in the group as well as their approach to the practice.

"We strive to get our clients to trust us with their biggest and most important projects, and we've been fortunate enough that oftentimes they have," Myers said. "The individuals who make up the group are really strong practitioners. Each of them is a leader in his or her field."

Given its long-running success, Orrick's project finance practice is poised to get a boost in its ranks during the firm's partners meetings in San Francisco this week, Meyers said.

"There are certain things that we are doing well, and we want to grow them," Meyers said.

Methodology: In November, Law360 solicited submissions from over 500 law firms for its practice group of the year series. The more than 550 submissions received were reviewed by a committee of Law360 editors. Winners were selected based on the significance of the litigation wins or deals worked on; the size and complexity of the litigation wins or deals worked on; and the number of significant, large or complex deals the firms worked on or lawsuits the firm had wins in. Only accomplishments from Dec. 1, 2010 to Dec. 1, 2011, were considered.

--Additional reporting by Roxanne Palmer. Editing by Lindsay Naylor.

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