

Wind Energy

Cozen O'Connor is able to deftly handle all aspects of wind energy projects with our dedicated cross-disciplinary team of lawyers who support projects both onshore and offshore in the territorial waters and on the Outer Continental Shelf of the United States.

With significant energy project development experience and lawyers in major cities of every coastal and Midwestern region of the country, Cozen O'Connor has the capacity to represent entities involved in all aspects of offshore and onshore wind energy project development and operation, including helping to secure regulatory approvals from state public utility commissions, local zoning and land development regulators, state environmental agencies, the U.S. Environmental Protection Agency, U.S. Customs and Border Protection, U.S. Coast Guard, Federal Maritime Commission, Maritime Administration, and the U.S. Bureau of Offshore Energy Management.

Here's how this cross-disciplinary team can support your project.

Federal and State Permitting and Regulatory Support

Our team of environmental and energy lawyers helps project developers in securing utility commission regulatory approvals for project development and approval to generate renewable energy credits. We also negotiate Power Purchase Agreements with power off-takers and interconnection agreements with electric distribution companies to ensure access to the grid. We can also assist in developing contractual relationships with regional transmission organizations and independent system operations, helping clients to understand and comply with RTO and ISO requirements. We advise project developers on project finance, including negotiating financial terms to enable construction financing and obtaining incentive financing.

Cozen O'Connor has significant experience representing large national and international wind energy companies in the conceptual, construction, and operation phases of both off-shore and on-shore wind energy projects. During the conceptual phase, we advise on the feasibility of the project as it relates to permitting (with an emphasis on environmental issues), acquisition of land rights, construction, and project schedules. We have experience with issues such as threatened and endangered species, flicker, ice throw, vibration, noise, wetlands, and soil erosion. We appear on our clients' behalf at zoning hearings regarding variances, special exceptions, conditional uses, and substantive validity challenges to zoning ordinances. We also negotiate agreements with landowners and governmental entities.

At the permitting phase, our environmental lawyers meet with federal, state, and local agencies to help clients obtain permits and other necessary approvals. Negotiation is an important aspect of the services we provide, and we employ it whenever possible to avoid litigation and other costly impediments to our clients' projects. When litigation becomes necessary, however, we defend clients against third-party challenges to permits and other approvals and also represent clients in litigation directly challenging the denial of permits and other approvals.

During the construction phase of a project, we deal with contractors; property owners; and federal, state, and local agencies to resolve legal issues so that the construction can proceed as smoothly as reasonably possible. This includes representing clients in connection with issues involving permit and contract compliance as well as in related litigation. With respect to environmental compliance issues, we can often avoid or shorten litigation by negotiating consent orders and agreements, when appropriate, with governmental agencies.

At the operation phase, we work with our clients to resolve any issues with landowners, the general

Peter J. Fontaine

Co-Chair, Utility, Environmental & Energy

pfontaine@cozen.com
Phone (215) 665-2723
Fax (856) 910-5075



Ira G. Megdal

Member

imegdal@cozen.com
Phone (856) 910-5007
Fax (877) 259-7984

Michael D. Klein

Member

mklein@cozen.com
Phone (717) 703-5903
Fax (202) 640-5521

Related Practice Areas

- Business/Corporate
- Government & Regulatory
- Utility, Environmental & Energy

public, and regulatory agencies in a reasonable and expeditious manner. We recognize that successful wind energy projects are the result of team effort, and we are team players who work well with our clients' project professionals during all phases of a project.

With regard to off-shore wind energy projects, we help wind developers navigate local, state, and federal permit requirements for project development and interface with federal agencies (i.e., BOEM, USEPA, NOAA) to help secure federal agency approvals, including National Environmental Policy Act approvals and Clean Air Act Outer Continental Shelf Source permits.

Maritime Transportation and Logistics Support

Cozen O'Connor has extensive experience representing entities involved in a wide variety of maritime and other transportation activities related to offshore wind project development, including offshore drilling and dredging, construction, cable and pipe laying, and the chartering and operation of vessels for offshore projects. Our transportation group can assist in negotiating and contracting for ocean, air, and surface transportation of high-value components — such as turbine towers, nacelles, hubs, blades, and generators — critical for wind development. Our maritime attorneys counsel clients on offshore wind project-related issues such as construction and other project related contracts, the financing and registration of vessels and other marine equipment, citizenship, compliance with U.S. cabotage laws including the Jones Act and Passenger Vessel Services Act, riparian and littoral rights, and seabed permitting and right of way grants. We also possess unique experience in leveraging the government funding tools available to support offshore wind project development, including loan guarantees under the Federal Ship Financing Program (Title XI), tax incentives under the Capital Construction Fund, and grants from the Office of Energy Efficiency and Renewable Energy (EERE).

Real Estate and Construction Support

Cozen O'Connor's Real Estate Practice is widely recognized for our ability to complete complex real estate transactions. We are experienced in managing real estate issues in connection with energy project development, including ground leases, option agreements, zoning, land use, and development matters. We provide real estate services for energy project development in the areas of right of way, easements, substation interconnection, approvals from local zoning and land use agencies, and all manner of real estate matters.

Our Construction Group serves owners, contractors, construction managers, architects, engineers, and subcontractors in project development. This includes counseling on project delivery systems, preparation of bid documents, contract drafting and negotiation, formation of owner or contractor controlled insurance programs, and formation of captive insurance programs. We also counsel project developers on claim evaluation and preparation, contract change orders, claim review, and project monitoring assistance. In addition, our construction team also litigates construction disputes on a range of issues, including breach of contract, defective specifications and design, construction defects and failures, payment disputes, bid payment, and Occupational Safety and Health Administration compliance.

Corporate Structuring Support

Our business lawyers have represented European wind energy developers and turbine suppliers to establish their corporate structure in the United States, form project-specific joint ventures, and prepare ancillary documents such as turbine supply and service agreements. We also have a robust EB-5 Immigrant Investor Program Services and Compliance practice comprising a multi-disciplinary group of attorneys who provide an integrated approach for clients with matters involving the EB-5 Immigrant Investor Visa Program.

