



Utility Finance

Chapman and Cutler's Utility Finance Group combines our focus on finance with decades of experience structuring financing transactions and advising clients on finance, compliance, regulatory, and taxation matters in the utilities industries, including energy, water, and telecommunications. We know these industries exceedingly well and are able to provide a wide range of legal services to participants in these markets.

Our practice includes:

- **Utilities:** Public, private, project, and tax-exempt financing transactions and SEC compliance matters for investor-owned, municipal-owned, and member-owned electric, gas, telecommunications, and water utilities
- **Institutional Investors:** Private placement transactions, financings secured by utility mortgage bonds, and tax equity financings for investors
- **Underwriters and Initial Purchasers:** Taxable, SEC-registered, and tax-exempt securities offerings by underwriters/initial purchasers
- **Banks and Lenders:** Direct purchases of securities of, and traditional lending to, utilities and developers, as well as in providing credit support/enhancement to transactions involving utility assets

Project Finance. We have extensive experience representing developers, sponsors, off-takers, equity and debt investors, and credit enhancers in infrastructure and energy financing projects. Our project finance experience includes power and renewable energy (wind, solar, biomass, and hydroelectric), oil and gas, transportation (highway, rail, and air), mining and metals, water and waste treatment, sports arenas, and petrochemical assets and projects. We are adept at employing innovative project development and finance techniques, such as public-private partnerships, on behalf of our clients. Chapman attorneys negotiate and structure debt and equity investments in these types of projects, including nonrecourse and limited recourse debt, equity placements, mezzanine debt, leveraged and synthetic leases, and public offerings of taxable and tax-exempt debt.

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Related Practices

Corporate Finance and Securities
Environment, Energy, and Resources
Investor-Owned Utilities
Project Finance
Project Finance Due Diligence
Redevelopment/Land Use Planning
Renewable Energy
SEC Registered Offerings (Debt and Equity)

Municipal Finance. Chapman attorneys have decades of experience representing municipal utilities and other governmental issuers in connection with tax-exempt and taxable bond offerings used to finance energy and infrastructure assets and in their roles as purchasers under long-term energy service contracts. We work with some of the most significant participants in the industry and consistently help these utilities lower their borrowing costs and secure long-term financing for qualifying capital projects. Chapman attorneys also help investor-owned utility clients finance pollution control facilities, solid waste disposal facilities, sewage facilities, and facilities for the local furnishing of electricity, gas, and water through the issuance of fixed, variable, and auction rate securities issued on their behalf by governmental entities. As one of the most experienced and well-recognized law firms in the nation in the area of municipal finance, Chapman has consistently been a leader in shaping and pioneering the structures used in the municipal finance markets, including direct involvement in the legislative effort that resulted in the creation of the Clean Renewable Energy Bond legislation.

Private Offerings. We represent utilities, placement agents, and investors in connection with private offerings of a wide range of equity and debt securities, including those issued in connection with leveraged and other lease transactions. Each year we serve as counsel to institutional investors in dozens of private placement transactions to benefit utilities.

Capital Markets. We represent utilities and underwriters/initial purchasers in connection with the public offering of a wide variety of equity and debt securities in public (SEC-registered) and Rule 144A offerings. We are experienced in handling offerings of common stock, preferred stock, and secured and unsecured debt for these clients.

Taxation and Incentives. Our tax attorneys provide a full range of legal services related to taxation and incentives for projects, investments, mergers and acquisitions, and other corporate transactions in the utility space. We routinely advise clients with respect to due diligence, investment tax credits, production tax credits, property taxes, sales and use taxes, taxable and tax-exempt financings, other tax incentives, transfer taxes, treasury cash grants, cross-border tax matters, and tax lobbying. We are also experienced in representing REITs and other tax-advantaged transaction parties that invest in utility projects, including as site lessors for sites where utility projects and assets are located.

Our attorneys are particularly adept at developing and employing tailored structures to efficiently enable developers and tax equity and other investors to utilize federal and state tax credits, benefits, and exemptions in financing and developing renewable energy assets. We are able to guide our clients in using sale-leaseback, lease pass-through, partnership flip structures, and REITs, and developing financeable project documents, such as PPAs, as well as offering other creative solutions that are cutting-edge in this industry.

Representative Transactions

Counsel to Utilities

- Counsel to municipal utility in connection with its development of approximately 57.6 MW wind farm located in Idaho, financed with a combination of tax equity and prepaid energy purchases under a long-

term service contract

- Counsel to a joint municipal electric power agency and a body politic and corporate, municipal corporation, and unit of local government in its purchase from a gas and electric company of an undivided ownership interest as tenant in common of a 495 MW coal-fired electric generating unit
- Counsel to a municipal power system in connection with the \$2 billion financing of a 900 MW coal-fired generating unit
- Counsel to a state energy agency in its issuance of \$100 million of an undivided interest in the construction costs of a 900 MW coal-fired electric generating unit
- Counsel to utility in connection with its medium-term note program
- Counsel to energy holding company in connection with its environmental improvement refunding revenue bonds
- Company counsel in utility-scale solar development projects, including EPCs, PPAs, leases, and operating agreements
- Company counsel with respect to purchase and sale agreements for emissions offsets and renewable energy certificates
- Company counsel in connection with EPC flyash and bottom ash conversion project for coal assets
- Company counsel in connection with gas and electric distribution and transmission construction agreements
- Company counsel with respect to network infrastructure agreement
- Company counsel in connection with cooling tower cell replacement
- Company counsel with respect to EPC dumper barrel and positioner replacement and installation
- Counsel to utility in development of standard contract templates, including professional services agreements, goods purchase agreements, construction agreements, contract labor agreements, non-disclosure agreements, and chemicals supply agreements
- Counsel to utility in development of contract playbooks to assist with legal review and negotiation of standard contracts

Counsel to Financiers and Investors

- Counsel to program sponsor in negotiating and documenting a forward purchase arrangement with a hedge fund investor for up to \$100 million of municipal bonds backed by commercial property assessed clean energy (C-PACE) loans
- Counsel to institutional investors in the structuring and closing of a \$445 million financing used to finance two coal-fired power plants that provide 2,365 MW of generating capacity to a consortium of 12 investor-owned utilities serving the Ohio River Valley, backed by take-or-pay power purchase agreements of the 12 utilities

- Counsel to institutional investors in connection with the issuance of \$140 million aggregate principal amount of senior secured notes related to the acquisition of nine hydroelectric facilities located in Maine, with a combined nameplate capacity of approximately 70 MWs
- Counsel to institutional investors in a US\$310 million and A\$100 million private placement of senior notes by the operator of the Victorian Desalination Plant in the State of Victoria, Australia
- Counsel to institutional investors in a \$140 million private placement of senior secured notes to finance a portfolio of thirteen hydroelectric plants located in New York, Pennsylvania, Virginia, and West Virginia with a total capacity of 106 megawatts
- Counsel to institutional investors with respect to the purchase of senior secured notes in connection with the acquisition of general and limited partnership interests for five 30 MW solar electric generating projects covering 1,300 acres in the Mojave Desert
- Counsel to institutional investors in \$150 million private placement of first mortgage bonds issued by an investor-owned water utility
- Counsel to institutional investors in \$200 million private placement of senior notes issued by an electric utility
- Counsel to institutional investors in \$200 million private placement of senior notes issued by a utility holding company
- Counsel to institutional investors in \$200 million private placement of senior notes issued by a gas utility
- Counsel to tax equity investor in a \$29 million investment in commercial solar energy generating system installed at a Superfund site
- Counsel to lenders in connection with the project financing of a 132 MW wind and power facility in Oklahoma
- Counsel to lender in connection with project financing associated with the construction, development, and operation of a 139 MW wind facility in Pennsylvania
- Counsel to company in connection with its acquisition of a majority interest in and financing of a 25 MW offshore wind project
- Counsel to purchasers with respect to \$250 million senior secured notes secured by assignment of power purchase agreement of an electric utility
- Counsel to purchasers with respect to \$90 million senior secured notes secured by assignment of power purchase agreement of an electric utility
- Counsel to purchaser of 144A structured notes issued by municipal cooperative to finance wind turbines
- Counsel to providers of commodity swaps to support natural gas revenue bonds in excess of \$2 billion
- Counsel to underwriters in connection with a common stock offering of an NYSE-listed utility holding company
- Counsel to initial purchasers in connection with a \$325 million Rule 144A offering of senior notes of an NYSE-listed utility holding company

- Counsel to underwriters in connection with a \$250 million offering of senior notes issued by an NYSE-listed energy supplying and trading company
- Counsel to REITs evaluating tax issues associated with investing in site leases and other real property interests on which energy generation systems or telecommunication systems will be located