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KING & SPALDING

Energy Newsletter



November 2017

INTERNATIONAL ARBITRATION

Global

Choice of Law in Host Government Agreements

John P. Bowman

Choice of law is a pillar of contract stabilization. While the host government wants its law to apply, the investor normally wants to “internationalize” the applicable law and can do so by seeking to expand application of the host government’s laws to include extra-State laws and norms or by seeking to limit application to the contract of future changes to the host government’s laws. **More »**

REGULATORY, TRANSACTIONS

LNG - Asia

Japan: De-Regulation, The Japan Fair Trade Commission and Take or Pay Disputes

Merrick White, Rupert Lewi, Richard Nelson, Sylvia Taslim and Zoë Bromage

The process of de-regulating Japan’s electricity and gas markets is accelerating. In other jurisdictions, de-regulation of the gas market has typically led to significant pain for the relevant incumbents, and in most cases, multiple arbitrations and disputes as the incumbents lose market share and seek to avoid making Take or Pay payments for gas that they no longer need. This paper looks at the potential impact of de-regulation on the Japanese gas market, the risks facing the Japanese Incumbents and some of the tools available to help them mitigate their potential exposure. **More »**

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In The News

Zack Harmon, Alec Koch to Speak at ACI's

TRANSACTIONS, INTERNATIONAL TRADE

LNG - Asia

An Asian LNG Spot Price – Have we reached the tipping point?

Merrick White, Rupert Lewi, Richard Nelson, Sylvia Taslim and Zoë Bromage

There have been many initiatives for an Asian LNG market price independent of oil prices. Recent trading data suggests the Platts JKM™ may be the LNG industry's first benchmark for spot and short term LNG sales in Asia. [More »](#)

INTERNATIONAL ARBITRATION, CONSTRUCTION

Global

Suitability of Arbitration Rules for Construction Disputes

David Kiefer and Adrian Cole

Before embarking on a significant capital project, energy developers and owners should consider how they would want a dispute with their contractors to be decided. Is arbitration a suitable option for a complex construction case involving scheduling and technical issues? Do the rules governing international arbitration create an appropriate procedural framework for such a dispute? This article, which was recently published as a chapter in Global Arbitration Review's [The Guide to Construction Arbitration](#), addresses these issues from the perspective of two King & Spalding partners whose practices focus on international arbitration and construction disputes. [More »](#)

FERC

Power – US/Canada

Hundreds of Parties Submit Comment in Response to Notice of Proposed Rulemaking on Grid Reliability and Resiliency Pricing

Kelsey Deslover and Carolyn Lachman

On September 28, 2017, Secretary of Energy Rick Perry issued a [Notice of Proposed Rulemaking](#) directing the FERC to fully value reliability and resiliency attributes of generation with on-site fuel supplies, a move supported by the coal and nuclear industries and opposed by most other commenters. [More »](#)

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International Conference on the Foreign Corrupt Practices Act. [More »](#)

Merrick White and Richard Nelson discuss the serious obstacles that upstream M&A activity faces in the Asia-Pacific region in [Energy Intelligence](#). White also discusses how Asian powers could unravel LNG contracts. [More »](#)

Craig Miles, Reggie Smith to Speak at Damages in International Arbitration Conference in Houston, TX on November 30, 2017. [More »](#)

King & Spalding advises NRG Energy on the sale of two wind farms to Longroad Energy. [More »](#)

John Bowman will be recognized on November 9 with the Lifetime Achievement in Energy Litigation Award by the Institute of Energy Law. [More »](#)

John Bowman was interviewed in connection with his inclusion as the only energy disputes lawyer in the 2018 publication of [Who's Who Legal Thought Leaders](#). [More »](#)

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