

KING & SPALDING

Energy Newsletter



June 2020

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LITIGATION, REGULATORY

Power – Europe

The Impact of COVID-19 on Nuclear Electricity Sales Contracts in France

Ruxandra Lazar and Nora Djeraba

The COVID crisis has affected the French electricity market, with several alternative producers claiming *force majeure* in the wake of fluctuating electricity prices. Several decisions have already been rendered on this issue by the French energy market regulator – *Commission de regulation de l'énergie* or “**CRE**”, the *Conseil d'Etat* (the highest administrative court on administrative matters) and the Commercial Court of Paris, but the legal battle is only just beginning and, given the amounts at stake, we can expect it will be long and bitter. [More »](#)



CONSTRUCTION, FERC, REGULATORY

LNG - U.S./Canada

FERC Adopts Regulations Delaying Construction of Federally-Regulated Natural Gas Projects Until it Rules on Requests for Rehearing

James F. Bowe, Jr. and William E. Rice

On June 9, 2020, the Federal Energy Regulatory Commission (FERC) issued a final rulemaking order amending its regulations to preclude the commencement of construction of FERC-authorized natural gas pipeline, storage and liquefied natural gas (LNG) facilities until FERC has acted on any requests for rehearing of the FERC orders authorizing them. [More »](#)

CONSTRUCTION, GOVERNMENT RELATIONS, REGULATORY

Renewable/Alternative Energy – Latin America

Mexico Restricts Entry Into Operation of New Solar and Wind Plants

Kenneth R. Fleuriet, Reginald R. Smith, Roberto J. Aguirre Luzi, Henry Burnett, Amy Roebuck Frey, Kevin D. Mohr, Fernando Rodriguez-Cortina, Isabel San Martin, and Arturo Oropeza Casas

On April 29, 2020, CENACE —the Mexican Electricity Grid Operator— issued an administrative **Decision** ordering the suspension of all preoperative tests for wind and solar PV plants for an indefinite period of time to allegedly “protect the efficiency, quality and security of the National Electric System” amid the COVID-19 pandemic. The Decision impacts new renewable energy projects currently conducting preoperative tests, as well as plants under construction. [More »](#)

REGULATORY, GOVERNMENT RELATIONS

U.S./Canada

California Amends Its Low Carbon Fuel Standard (“LCFS”)

Jonathan M.A. Melmed, Peter Hsiao, Adam Hankiss and Logan MacCuish

Pressing forward with its efforts to address climate change, the California Air Resources Board (“CARB”) finalized amendments to



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Douglas Henderson explains the impact of the coronavirus on PFAS litigation [More »](#)

Craig Stanfield, Christie Cardon, Abby Parsons, Kathleen McCarthy and Bruce Hurley represent Chevron in a federal court, which boosted a final judgment from \$1.1M to more than \$15.6M against a company that infringed on Chevron's trademark [More »](#)

K&S advises KS Invest in its renewable energy dispute with Spain [More »](#)

A K&S team from Houston, Washington, D.C., and Paris counsels EP Wind on its ICSID claim against Romania [More »](#)

Next Wave Energy Partners and Energy Capital Partners close financing for Traveler Alkylate Facility [More »](#)

Karl Heisler, as counsel for Garrison Southfield Park LLC, quoted in connection with \$17M

its innovative LCFS. To add stability to the credit market, the amendments constrain LCFS credit costs by establishing a hard price cap of \$200 in 2016 dollars on credit transactions. They also allow a limited amount of credit borrowing if there are insufficient credits to meet annual compliance obligations. The amendments, which are effective July 1, 2020, seek to stabilize the LCFS market and ensure its continued support by capping the cost of LCFS credits. [More »](#)

environmental cleanup project in Columbus, OH [More »](#)

LITIGATION

Oil & Gas – U.S./Canada

Ninth Circuit Climate Change Ruling Opens Door to Increased Litigation

Carol Wood, Tracie J. Renfro, Ashley C. Parrish, Nate Bilhartz and Oliver Peter Thoma

The past three years have seen a wave of tort lawsuits brought by local governments and one state seeking to hold fossil fuel companies liable for costs resulting from climate change. Whether the cases can be removed to federal court is a central issue. In all but one case, plaintiffs initially filed suit in state court, asserting claims for public nuisance and other state-law causes of action. Defendants have removed the cases to federal court, and plaintiffs have fought to have the cases remanded to state court. In a pair of opinions issued May 26, 2020, the Ninth Circuit held that the fossil fuel company defendants in two of these lawsuits failed to satisfy the requirements for removal. These opinions potentially open the door to more state court lawsuits seeking money damages from companies that have allegedly contributed to climate change. [More »](#)

LITIGATION, PROJECT DEVELOPMENT AND FINANCE, INTERNATIONAL TRADE, TRANSACTIONS

Oil & Gas – U.S./Canada

INSIGHT: Energy Explosion—10 Trends to Watch in Energy Restructurings

Matthew Warren, Sarah Primrose and Taylor Armstrong

U.S. crude is at record lows, with the Saudi Arabia-Russia price war and the pandemic. King & Spalding attorneys take a look at what's expected in the energy industry, considering the number of bankruptcies already filed with more expected. This article was

originally published by Bloomberg Law, and is an update to an article from K&S's May 2020 newsletter. [More »](#)

<https://news.bloomberglaw.com/bankruptcy-law/insight-energy-explosion-10-trends-to-watch-in-energy-restructurings>

GOVERNMENT RELATIONS, REGULATORY

U.S./Canada

Is COVID-19 a Work-Related Illness?

James K. Vines, Joseph A. Eisert, Karl R. Heisler and Nicholas H. Howell

On May 19, 2020, the United States Department of Labor's Occupational Safety and Health Administration ("OSHA") issued "Revised Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19)." This guidance rescinded previous enforcement guidance altering the recordation requirement for COVID-related illness and injuries. [More »](#)

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