

Energy

Nearly every aspect of the American way of life depends on access to economic, efficient energy sources. Our nation's economy and security interests increasingly demand that these sources be both reliable and safe. The energy sector is rapidly changing, not only in terms of how power is generated and transmitted, but also in selecting power sources to use. A deep understanding of this dynamic situation is necessary to effectively represent clients in this industry.

Our multi-disciplinary team represents clients in nearly every facet of the energy industry and understands the regulatory, operational, and business challenges unique to the following sectors:

- Renewable Energy
- Electric Power
- Energy Markets
- Linear Infrastructure
- Oil & Gas

The scope of our energy practice, both regionally and nationally, provides clients with an experienced, results-oriented industry team that brings to bear its understanding of regulatory, business, technical, and political issues as well as knowledge of opposition tactics. We assist energy clients with matters involving state and federal regulations, environmental and corporate issues, project development, siting, eminent domain, real property tax, mergers and acquisitions, financing, real estate, land use, litigation, tax, and governmental affairs.

The service we provide our energy clients has been ranked multiple times by *Chambers & Partners*, with Barclay Damon's Energy Team ranking among the top energy practices in New York State in the current edition. *Chambers* notes, "Barclay Damon LLP is a strong team equipped to handle the full spectrum of energy cases, from environmental and regulatory matters to M&A, land use and public policy issues. . . . Clients benefit from the team's wealth of experience gained during various roles in public bodies."

Our Energy Team was founded over 40 years ago in the regulated public-utility environment. Since deregulation of the energy industry in the late 1990s, Barclay Damon has significantly expanded and diversified its energy client base to include:

- Independent power producers
- Renewable energy companies
- Retail energy suppliers and marketers
- Publicly owned utilities
- Midstream and interstate pipeline companies
- Project developers
- Investment banks
- Private-equity funds
- Venture-capital firms
- E&P companies

Representative Experience

- Represented an energy industry client regarding an opinion related to construction and term loans provided by National Cooperative Bank, N.A.
- Represented a hydroelectric developer in its acquisition of a hydroelectric facility in Oregon, including negotiating an acquisition agreement and conducting due diligence involving environmental and real estate issues and permits.
- Defended a utility in a \$1 million personal injury action allegedly resulting from a failure to provide municipal lighting.
- Providing strategic advice for the replacement of more efficient and cleaner turbines at an existing generating facility, including securing the necessary permit modifications to enable the project to go forward and interfacing with NYSDEC and other state and local agencies to secure the necessary permits and approvals in a timely manner.
- Represents an energy storage projects developer in handling all aspects of the projects, including counseling on all siting and permitting issues to ensure the most efficient and successful project development while preserving the in-service dates as well as interfacing with key regulators.
- Serve as lead counsel regarding New York permitting for an interstate-pipeline company proposing to expand its existing infrastructure in Pennsylvania, New York, and New Jersey.
- Successfully defended an adversaries' appeal of a lower court's denial of an Article 78 petition that sought to reverse the Public Service Commission's denial of retroactive reimbursements to a group of residential developers for certain trenching work used to install utility service. The Appellate Division's decision to affirm the lower court order was particularly important to the utility client because an adverse decision would have potentially caused other developers to also seek retroactive reimbursements, opening the client up to additional claims and damages.
- Obtained a SEQRA negative declaration and municipal approvals for a 5 MW community solar facility.
- Successfully assisted with defending an appeal of the siting board's approval for a 340-megawatt, 83-turbine wind farm project.
- Represents a power generation company as its NYS Public Service Commission counsel with respect to the interconnecting transmission lines and regulatory siting approvals needed for an offshore wind project, which was awarded a contract for offshore wind renewable energy credits (ORECs) by NYSERDA. Along with our co-counsel on environmental issues, Barclay Damon is working with the client to develop Article VII application materials for its offshore wind project.
- Represents a power generation company as its NYS Public Service Commission counsel with respect to the interconnecting transmission lines and regulatory siting approvals needed for an offshore wind project, which was awarded a contract for offshore wind renewable energy credits (ORECs) by NYSERDA. Along with our co-counsel on environmental issues, Barclay Damon is developing the Article VII application materials for the offshore wind project. We are also assisting in its participation in the NYISO Class Year facilities study process.
- Represents a power generation company as its NYS Public Service Commission counsel with respect to the interconnecting transmission lines and regulatory siting approvals needed for an offshore wind project, which was awarded a contract for offshore wind renewable energy credits (ORECs) by NYSERDA. Along with our co-counsel, Barclay Damon has prepared and filed an Article VII application for a part of the offshore wind project, is responding to a deficiency letter from DPS staff, and is answering questions from DPS staff to ensure the completion of the application. We have also assisted the client with the posting of security in the NYISO Class Year Facilities Study for the offshore wind project as well as the negotiation of support services agreements with another energy company and the negotiation of the interconnection agreement for that facility. Barclay Damon also filed a petition with FERC seeking an extension in the period for achieving commercial operation to be stated in that interconnection agreement.

- Representing the New York Power Authority with respect to the siting and construction of a rebuild of an 86-mile-long transmission line that traverses 15 municipalities. Barclay Damon attorneys prepared and finalized the Article VII Application, assisted the NYPA with supplementing filings to achieve a “complete” application, handled the discovery phase, and led months of settlement conferences. The settlement negotiations culminated in a joint proposal for settlement support by all of the active parties and state agencies. A CECPN was issued by the PSC without the need for an evidentiary hearing. We then assisted the NYPA in the preparation of the Environmental Management and Construction Plans (EM&CP) for the project, which were also approved by the PSC. Construction is currently ongoing for this project. We continue to support the NYPA with compliance issues during construction.
- Successfully achieved a \$3 million reduction in assessed value relating to hydro assets owned by an independent power producer, securing a significant refund and multiyear agreement to keep assessed values lower and stable for the term resulting in reduced property tax burden.
- Successfully achieved a \$12 million reduction in assessed value relating to hydro assets owned by an independent power producer, securing a significant refund and long-term agreement to keep assessed values lower and stable for the term, resulting in a reduced property tax burden.
- Successfully achieved a \$21 million reduction in assessed value relating to hydroelectric assets owned by an independent power producer, securing a significant refund and a long-term agreement to keep assessed values lower and stable for the term, resulting in a reduced property tax burden.
- Completed environmental and real property due diligence in connection with a series of equity investment transactions in several solar energy facilities in Massachusetts and New York, and as local counsel, advised our client, the investor, of the legal and business risks and prepared permit schedules for closing.