Power & Energy Construction

Power and Energy Construction Leaders

Recognized as a leader in representing clients nationwide for power and energy construction disputes, transactions, and EPC contracts, Barclay Damon's knowledge of the industry allows us to help clients navigate the complex intersection of law and business.

Our seasoned and multidisciplinary team includes attorneys with extensive industry expertise and backgrounds in engineering, accounting and other related disciplines. We regularly represent public utilities, merchant power generators, developers, private equity firms, EPC contractors, subcontractors, and more with matters across the United States.

We provide strategic advice to mitigate risk and resolve disputes in energy projects. Our team regularly drafts and negotiates EPC contracts and leverages additional Barclay Damon practice areas to round out financing, environmental, project development, regulatory, and other challenges to ensure successful project completion—on time and on budget. When disputes arise, we prepare, analyze, defend, and prosecute virtually every type of power and energy construction claim.

Proactive Risk Management and Dispute Resolution

Skilled at navigating the legal and business landscape of power and energy projects, we proactively identify potential issues in EPC contracts before they arise, minimizing risk and ensuring project success. When disputes do occur, we are prepared to prioritize our client's commercial interests and are often engaged in multimillion dollar litigations, arbitrations, mediations, and other forms of alternative dispute resolution (ADR).

Proven Success: Trial Victories and Billion-Dollar Deals

As trial lawyers, not just litigators, our team has an undisputable track record of success. We have secured one of the largest liquidated damages awards in construction history and regularly negotiate large complex EPC contracts for major facilities.

Smart Strategies for Power and Energy Construction

Gaining strong satisfaction from what we do, our passion for our practice frees us to fully commit ourselves to our client's objective. We relish obstacles and employ whatever innovations are appropriate to achieve our client's desired result. We are serious about power and energy construction, and it is our enthusiasm for the industry that elevates us to one of the top law firms in the field.

Representative Experience

- Successfully defended in the US Second Circuit Court of Appeals a challenge to the New York State Department of Environmental Conservation's (NYSDEC) granting of an application for a Water Quality Certification under § 401 of the Clean Water Act, which is required for the construction through NYS waters of a major natural gas pipeline project.
- Represented one of the largest privately owned energy companies in connection with several California battery storage projects on EPC and long-term maintenance contracts on California projects, including issues relating to major change orders, warranty coverage, and remedies.

- Represent a national utility in connection with a multiyear, $1 billion transmission line upgrade construction project on contract structure and drafting an engineering, procurement, construction management (EPCM) agreement and multiple construction contracts.
- Represent an LNG client in connection with the drafting and negotiation of an EPC contract with three bidders on a $40 million LNG vaporizer project.
- Represented one of the largest international energy companies in connection with the drafting of a new form of EPC contract, which is being used in all of the company's gas and electric power generation facility construction projects.
- Successfully defended a power plant owner in a dispute involving the construction of a 619-megawatt combined-cycle plant, represented the owner against claims brought by the contractor, and asserted a $16 million claim against the EPC contractor, achieving a favorable settlement of all claims.
- Represented a subcontractor in the construction of a combined-cycle plant in Albany, New York, in a multimillion-dollar suit in US District Court in Denver, Colorado, resulting in a favorable settlement.
- Represented a client in a $97 million dispute with a contractor for wanton and reckless breach of contract related to the cancellation of a 960-megawatt coal-fired power plant in the Midwest. After litigation in federal district court and an appeal, the parties then engaged in mediation that resolved the litigation.
- Achieved a favorable outcome representing a power plant owner in a dispute involving the construction of a hydroelectric power plant in Livingston County, Kentucky, against claims of over $7 million made by an electrical contractor on the project and asserted claims on behalf of the owner against the electrical contractor due to nonconforming work and delays. A favorable settlement of all claims was achieved, resulting in the dismissal of the lawsuit.
- Successfully represented an owner of geothermal power plants in a dispute in which the owner pursued delay and performance liquidated damages claims totaling approximately $2.85 million against the turbine manufacturer.
- Prevailed on behalf of a power plant owner in a dispute involving the construction of a combined-cycle plant with claims of $16 million against the contractor for nonconforming work and delays and claims of $30 million from the contractor against the client for acceleration and productivity impacts. Negotiations resulted in a favorable global settlement.
- Successfully represented in federal court the owner of multiple newly constructed hydroelectric power plants on the Ohio River in multimillion-dollar claims against OEM for delay and defective work. After extensive discovery and summary judgment proceedings, achieved a mediated settlement of all claims.
- Represented a merchant power company on a $533 million power plant construction project in Upstate New York in a series of complex arbitration proceedings. The hearing was divided into four phases, each focused on one of the construction areas in dispute, and involved extensive testimony as to power plant combustion turbine engineering, construction scheduling, construction craft labor productivity and ergonomics, meteorology/climatology, chemistry, power industry economics, and construction cost accounting. Our client successfully defeated 95 percent of the contractor claims, and arbitrators awarded the client $26,950,000 in liquidated damages.
- Successfully defended a power plant owner in a dispute involving the construction of a 309-megawatt natural gas-fired, combined-cycle plant against contractor claims of $35 million and asserted claims against the contractor. A favorable settlement was achieved that resulted in the dismissal of lawsuits and closeout of the project.