



Giji John
Partner
ORRICK

Hedging for New Use Cases: Battery Storage, Proxy Generation & Affiliate Swaps

NEW DATES! April 27 - 28, 2021 | 8:45 AM - 2:00 PM PDT | Digital Access

April 27, 2021

8:45-9:00 PST **Introduction and Opening Remarks**

Giji John, *Partner*, ORRICK

9:00-9:55

Session 1: Applying the “Traditional” Hedge Model to Other Use Cases

This session will focus on how parties can use aspects of the “traditional” energy hedge in designing bespoke hedges that work for different technologies and modalities.

- Understand how the business and financial drivers drive the form of contracting and create tension around particular hedge provisions
- Identify how to meet the needs of important non-contracting parties (e.g., investors, financing parties, etc.) to drive transaction closings
- Discuss how different technologies (battery storage) and modalities (proxy generation and affiliate hedges) change contracting approaches
- Hear how a hedge works with storage and other specific use components

Giji John, *Partner*, ORRICK

9:55-10:10

Live Q&A/Transition

10:10 -10:20

Break

10:20-11:00

Session 2: Understanding & Using Proxy Generation Instruments

Knowing how to use the features of proxy generation instruments is critical to re-allocating risks. This session will introduce the suite of available proxy generation instruments—including the proxy revenue swap, proxy generation PPA, volume firming agreement, settlement guarantee agreement and balance of hedge, and quantify how they insulate various project participants from risk.

- Understand the key mitigants that proxy generation instruments provide, including an exploration of empirical data
- Discuss the major terms and conditions of these instruments, including credit support, termination and unwind

Lee Taylor, *CEO*, RESURETY

11:00-11:15

Live Q&A/Transition

11:15-11:25

Break

11:25-12:10

Session 3: Defining Battery Storage Attributes for Hedging in ERCOT, CAISO & PJM

This session will outline the battery storage products that are bought, sold and tradeable in today's most active markets—CAISO, ERCOT and PJM. Attendees in this session will:

- Understand the market design for battery storage projects in each of CAISO, ERCOT and PJM
- Explore how different products are tradeable under different hedge configurations, including the ISDA, WSPP and EEI

Giji John, *Partner*, ORRICK

Rohit Sachdev, *Partner*, ORRICK

12:10-12:25

Live Q&A/Transition

12:25-12:55

Lunch

12:55-1:40

Session 4: Lessons Learned from the Texas Weather Crisis

With the recent meltdown of the ERCOT power grid and the dramatic implications of performance at the individual project level driven by local weather conditions, contractual defenses have become even more important, with increasing scrutiny necessary to ensure that a project is covered. The TX weather event has put a spotlight on the importance of proactively looking at these defenses, and placed more scrutiny and urgency in parsing the variability in the contractual language for hedges in progress. This session will cover these pressing issues, and answer these questions:

- Overview of contractual defenses: Force Majeure, Frustration of Purpose, Commercial Impracticability, Market Disruption Event
- How did hedges fare during the TX weather crisis, and what factors led to each different outcome?
- What are major third parties, like tax equity, looking for in hedge negotiations moving forward?
- Under a Force Majeure Event, how is payment/delivery under a Transaction delayed and what are the limits?
- What other provisions or protections could hedge providers need in order to be comfortable with these contractual defenses?
- What is the difference between force majeure in physically vs financially settled hedges?
- How might repricing by ERCOT for specific hours affect project viability?
- What additional risks is Resettlement of Pricing creating?

Giji John, *Partner*, ORRICK

Nik Mathews, *Partner*, ORRICK

1:40-1:55

Live Q&A/Day 1 Wrap Up

1:55-2:55

Virtual Networking

9:00-9:40

Session 5: Defining & Understanding the Use of Affiliate Hedges

This session will introduce the special case of affiliate energy hedges. While this option is not available to all IPPs, those with the ability to manage volatility risk may find it attractive for enabling projects to be contracted (and ultimately financed).

- Define the basic terms of contract for an affiliate hedge, and how they may differ from their third party contracting counterparts
- Consider how affiliate hedges should be transacted so as to avoid pitfalls under tax laws, including the loss of available tax credits and depreciation
- Understand who might benefit from using an affiliate swap, and why

Giji John, *Partner*, ORRICK

Michael Masri, *Partner*, KIRKLAND & ELLIS LLP

Bari Wien, *Director, Renewable Energy and Environmental Finance (REEF)*, WELLS FARGO BANK

9:40-9:55

Live Q&A/Transition

9:55-10:05

Break

10:05-10:45

Session 6: Regulatory Considerations—Dodd Frank/FERC

Gain a wholistic view of the regulatory regime that applies to energy hedges, both from the energy regulatory perspective as well as those that arise in the commodity trading context.

- Identify the FERC and state energy regulatory requirements that may impact on an energy hedge
- Identify CFTC and Dodd-Frank reporting and clearing requirements that may impact on an energy hedge
- Consider how these requirements differ depending upon whether an energy hedge is “physical” or “financial”

Cory Lankford, *Partner*, ORRICK

Nik Mathews, *Partner*, ORRICK

10:45-11:00

Live Q&A/Transition

11:00-11:10

Break

11:10-11:55

Session 7: Recap: Applying Key Concepts to Any New Use Case Negotiations

This session will conclude by reviewing the key take-ways from each complex use case, and will leave participants with a framework for applying these take-aways in future products. Gain an overall understanding of the provisions, structures, and risk management strategies for any financial derivative product using new technologies or unique approaches to finance.

Giji John, *Partner*, ORRICK

11:55-12:10

Live Q&A/Transition

12:10-12:50 *Lunch*

12:50-2:00 **Session 8: Office Hours: Interactive Live Zoom Session & Update on Lessons Learned**

This Interactive Live Zoom Session at the class conclusion allows you to get your most pressing questions answered, and to interact with Master Class Instructors in real time. The discussion will also cover updates on the most recent developments in the ERCOT market regarding new hedge negotiations, pricing and payments, and counterparty issues.

Moderator:

Giji John, *Partner*, ORRICK

Panelists:

Nik Mathews, *Partner*, ORRICK

Additional Panelists to be Announced

2:00-3:00 *Virtual Networking*