

Members of the Tax Group at Skadden have significant experience planning and structuring transactions in the energy sector. Our tax-related energy experience also involves assisting energy-focused clients with industry-specific issues, both in the transactional and planning context, and in controversies and litigation, including matters before the Internal Revenue Service (IRS).

Attorneys in our transactional tax practice have worked on developments, financings, refinancings, acquisitions and dispositions of energy projects and portfolios of all sizes in the U.S. and around the globe. With our broad-based transactions practice, we have assisted numerous clients in evaluating, structuring and implementing novel transactions in the energy sector. In recent years, a primary area of focus has been renewable energy projects, many of which have been structured to take advantage of tax credits, grants and other governmental incentives designed to spur investment in renewable energy. For example, we have assisted clients in the acquisition and financing of solar energy projects and companies, including both photovoltaic (PV) and concentrating solar power projects, as well as in the development, acquisition and financing of wind energy projects and companies. We also have significant experience with biomass, waste-to-energy, geothermal and hydropower energy projects, as well as with projects using more traditional fuel sources such as coal, natural gas, liquefied natural gas (LNG) and nuclear energy.

Many of our attorneys have extensive tax-related administrative and policy experience and have formerly held senior positions in the Treasury Department and IRS, and in key Congressional staff positions. That experience, coupled with our unparalleled tax controversy capability, enables our Tax Group to react quickly in analyzing novel transaction structures and, where necessary, seek rulings or other government guidance to facilitate their prompt implementation.

Skadden's Tax Group routinely advises clients in connection with tax controversy matters arising with respect to energy projects and the energy industry, including tax accounting matters, in all phases of the dispute resolution process (*i.e.*, audits, appeals, mediation, arbitration and litigation).

Selected energy tax law transactional representations in recent years have included:

Tax Equity

- Ameresco, Inc. in a sale-leaseback tax equity transaction with respect to a portfolio of commercial distributed generation solar projects located on municipality-owned sites in Massachusetts.
- ArcLight Capital Partners LLC and its affiliate, Terra-Gen Power LLC, in a tax equity financing with Citigroup Global Markets Inc. for a 282 MW wind energy project portfolio located in California, Wyoming, Colorado, Minnesota and Texas.
- Bank of New York Mellon in its up to \$440 million tax equity investment in a portfolio of U.S. wind projects developed by EDP Renewables North America LLC, including the 100 MW Meadow Lake V project in White County, Indiana; the 98 MW Quilt Block project in Lafayette County, Wisconsin; the 99.1 MW Redbed Plains project in Grady County, Oklahoma; and the 66 MW Hog Creek project in Hardin County, Ohio.

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- Barclays and Citigroup in the creation of:
 - a \$160 million lease pass-through fund with SunEdison, Inc. to provide the tax equity for 40 U.S. distributed generation projects. The portfolio includes a mix of ground-mounted, rooftop and canopy PV systems; and
 - an additional \$117 million lease pass-through fund with SunEdison, Inc. that will provide the tax equity for 35 distributed generation projects in 12 U.S. states and Puerto Rico.
 - A fund of BlackRock Financial Management, Inc. in the acquisition of a 90 percent stake in CWS Wind Farm, LLC, a 30.75 MW wind farm located in Minnesota, and in the sale of a tax equity stake in CWS Wind Farm to a subsidiary of U.S. Bancorp.
 - The Blackstone Group L.P. as tax equity investor in three portfolios of rooftop solar photovoltaic projects in the United States that were installed by Vivint Solar, Inc.
 - Centaurus Renewable Energy, LLC in connection with the sale of:
 - a tax equity stake in a 28 MW solar photovoltaic generating facility located in California; and
 - an interest in a joint venture to develop and operate a utility-scale solar photovoltaic electric generating facility.
 - Citibank, N.A. and its affiliates in connection with a number of tax equity investment funds, including inverted leases, partnership flips and a first-of-its-kind PACE transaction. The investments have been in the residential, commercial and industrial sectors.
 - Combustion Emissions Reduction Technologies in connection with the development of 15 refined coal projects and placement of tax equity investments in its projects.
 - EDP - Energias de Portugal, S.A. in its \$2.9 billion acquisition of Horizon Wind Energy LLC from The Goldman Sachs Group, Inc., including the related sale of tax equity.
 - First Solar, Inc. in connection with:
 - obtaining tax equity financing from JPM Capital Corporation for the 179 MW Switch Station solar projects, two PV power plants in Nevada;
 - the tax equity investment by affiliates of General Electric Company and Goldman, Sachs & Co. in the 250 MW Moapa project in Clark County, Nevada;
 - the Kingbird project a 40 MW PV solar power plant in Kern County, California, including in: its tax equity financing; the sale of a stake in the project to 8point3 Energy Partners LP; and the sale to State Street Bank and Trust Company of an interest and tax equity investment in the Kingbird project;
 - the purchase of the class B interests in tax-equity joint ventures in numerous solar projects (as one of the sponsors of 8point3 Energy Partners LP); and
 - four transactions with affiliates of Southern Company, involving sales of interests in solar PV generating facilities in California, including:
 - the sale of a 51 percent economic interest, and tax equity investment in the 150 MW Solar Gen 2 facility;
 - the sale of a 51 percent economic interest, and tax equity investment in the 32 MW Lost Hills and Blackwell facilities;
 - the sale of a 51 percent economic interest, and tax equity investment in the 60 MW North Star facility; and
 - the initial sale of a 51 percent stake, and a subsequent sale of an additional 15 percent stake in the 300 MW Desert Stateline facility.
 - Goldman Sachs Special Situations Group in connection with a \$126 million investment in a pool of residential rooftop solar installations developed by SunRun Inc.
 - MUFG Union Bank, N.A., as administrative agent, in connection with refinancing a credit facility for CSOLAR IV West, LLC, the developer of the 150 MW Tenaska Imperial Solar Energy Center West project in California, which consists of a term loan refinancing of existing construction loans, a letter of credit facility, a working capital facility and a tax equity bridge loan.
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- Multiple investors in connection with making billions in tax equity investments in various refined coal projects.
 - Onyx Renewables Partners L.P., a portfolio company of The Blackstone Group L.P., in a combination inverted lease and partnership flip tax equity investment with Credit Suisse in a portfolio of solar companies owned by Onyx.
 - Pattern Energy Group LP in the financing, including tax equity investments, and \$269 million sale of its interests in the 324 MW Broadview Wind power facility in New Mexico and the associated independent 35-mile 345 kV Western Interconnect transmission line to Pattern Energy Group Inc. This matter was named the 2016 “North America Transmission Deal of the Year” by *IJGlobal*.

Project Finance and Development

- 8point3 Operating Company, LLC in connection with the second amendment and incremental joinder agreement under its existing credit and guaranty agreement. The joinder agreement provided for a new \$250 million incremental term loan facility, the proceeds of which may be used by 8point3 to acquire economic interests in the Henrietta solar project and/or the Desert Stateline solar project, both in California.
- Alberta Investment Management Corporation in the mezzanine financing of a portfolio of DE Shaw’s renewable projects. The proceeds of the loan will be used by D. E. Shaw Renewable Investments to fund existing projects and to acquire new projects.
- ArcLight Capital Partners LLC and its affiliate, Terra-Gen Power LLC, in the acquisition and project financing, consisting of commercial bank and leveraged lease debt and equity financing, of a geothermal project located in the western the U.S.
- Bank of America Merrill Lynch, in the tax aspects of its:
 - financing of SolarCity’s SolarStrong project. SolarStrong, which will build more than \$1 billion in solar power installations for privatized U.S. military housing communities across the country. *The Financial Times* “US Innovative Lawyers” report ranked our representation of Bank of America Merrill Lynch as one of only two matters in the top tier in the energy category for 2012; and
 - \$1.4 billion loan by the U.S. Department of Energy (DOE) for Project Amp, the world’s largest distributed rooftop solar generation project. This project was awarded 2011 “Finance Innovation of the Year” by *Renewable Energy World*.
- Big River Steel LLC in \$1.225 billion of financing, consisting of: a \$600 million Rule144A/Regulation S offering of senior secured notes due 2025, a six-year \$400 million senior secured term loan facility and a five-year \$225 million asset-based lending facility. The proceeds were used to refinance a substantial majority of its outstanding indebtedness and for general corporate and working capital purposes.
- Cinergy Solutions, Inc. in a joint venture with BP Global Power to develop, own and operate two cogeneration facilities (one power and one steam) at BP’s Texas refinery near Houston.
- Citigroup Global Markets, Inc. as lead placement agent, and the co-placement agents in a \$421 million 4(a)(2) private placement of senior secured notes issued by an indirect subsidiary of FTP Power, LLC (doing business as sPower). Skadden also represented Coöperatieve Rabobank and Wells Fargo as joint lead arrangers, and issuing banks in a related \$100 million letter of credit facility. The proceeds of the notes were used to finance the operations of a portfolio of 39 solar and two wind generating facilities (which were grouped in nine existing tax equity funds) and to refinance three back-leverage debt facilities in place for the construction and early operations of many of the facilities. The facilities are located in seven states across the United States and total 475.6 MW AC/565.2 MW DC in aggregate capacity. This transaction was named “Americas Renewables Deal of the Year” for 2017 by *Project Finance International*.
- Citizens Sunrise Transmission LLC, a subsidiary of Citizens Energy Corporation, in its lease of a portion of the Border-East 500 kV electric transmission line in Imperial County, California, and its issuance of senior secured notes to finance the lease.
- Edison Mission Energy and its indirect wholly owned subsidiary, Viento Funding II, Inc., in a \$207 million financing of a portfolio of wind energy projects, including the 161 MW Wildorado Project in Texas, the 120 MW San Juan Mesa Project in New Mexico and the 81 MW Elkhorn Ridge Project in Nebraska. The financing consisted of a \$189 million secured term loan, a \$13 million secured letter of credit facility and \$5 million secured working capital facility.

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- The United States Department of Energy (DOE) in its guarantee of \$1.24 billion of federal loans to High Plains Ranch II, LLC for the construction of a 250 MW solar PV electricity generation facility, located in San Luis Obispo County, California. The DOE's guarantee and the underlying federal loans are secured by a security interest in all assets of, and all equity interests in, High Plains Ranch II, LLC.
 - Energy Answers Inc. in connection with the power sales agreements and development financing of a 150 MW municipal solid waste resource recovery and power project located in Baltimore, Maryland, and a 75 MW municipal solid waste resource recovery and power project located in Puerto Rico.
 - First Solar, Inc. in connection with the tax aspects of:
 - a \$967 million guaranteed loan from the Federal Financing Bank to support the 290 MW Agua Caliente solar project in Arizona as well as construction arrangements, O&M arrangements and the sale to an affiliate of NRG Energy, Inc. At closing, this was the largest solar power financing in the world. This project was awarded "Solar Project of the Year" by *Renewable Energy World*;
 - a \$646 million guaranteed loan from the Federal Financing Bank to support Antelope Valley Solar Ranch One, a 230 MW PV project, as well as the construction, O&M arrangements and sale of the project to an affiliate of Exelon Corporation, who agreed to invest up to \$713 million in the project;
 - a \$1.46 billion loan to support the 550 MW Desert Sunlight PV project as well as construction, O&M arrangements, and the sale of the project to investors, including affiliates of NextEra Energy. When complete, this will be the largest solar PV project in the world. The financing for the project is being provided by a syndicate of banks and other financial institutions led by Citi and Goldman Sachs. This deal was named "North American Solar Deal of the Year" for 2011 by *Project Finance*; and
 - obtaining a conditional commitment for \$1.93 billion in loans to support Topaz Solar Farm, a 550 MW solar electric generation project located in eastern San Luis Obispo County, California. Skadden also represented First Solar in the subsequent sale of the Topaz Solar Farm to MidAmerican Energy Holdings Company. This deal was named "North American Solar Deal of the Year" for 2012 by *Project Finance*.
 - Hudson Transmission Partners, LLC in the \$850 million construction financing of its 660 MW underwater transmission line between New Jersey and Manhattan. The debt financing was arranged by The Royal Bank of Scotland plc and Société Générale, and the equity financing was provided by private equity funds managed by Energy Investors Funds and Starwood Energy Group Global, LLC.
 - Merrill Lynch Commodities, Inc. in connection with an intermediation of crude oil and refined products with Philadelphia Energy Solutions Refining and Marketing LLC (a joint venture of The Carlyle Group and Sunoco, Inc.), which Merrill Lynch Commodities took via assignment from J.P. Morgan Ventures Energy Corporation. Merrill Lynch Commodities and other affiliates of Bank of America Merrill Lynch also took via assignment of Philadelphia Energy Solutions Refining and Marketing's \$100 million receivables-backed revolving credit facility.
 - Morgan Stanley Senior Funding, Inc. as sole lead arranger and lender in the \$170 million senior secured bridge financing to GCL Alpaugh Project HoldCo, LLC for the Alpaugh North and Alpaugh 50 solar generating plants in California.
 - NV Energy in its acquisition of a joint ownership interest in and capacity use arrangements for a Nevada transmission line project, and in connection with a \$343 million loan guarantee from the DOE. The project, known as ON Line, will connect power grids in northern and southern Nevada and is the first transmission project to receive a loan guarantee from the DOE.
 - PensionDanmark A/S, a Danish pension fund with €16.4 billion under management, in a \$280 million private placement backing a 430 MW portfolio of U.S. wind farms.
 - SolarReserve, LLC in connection with a \$737 million loan from the Federal Financing Bank to support the Crescent Dunes Solar Energy Project as well as construction, O&M arrangements and the sale of a portion of the project to equity investors. Crescent Dunes uses a concentrating solar power (CSP) tower design with molten salt storage to store the sun's heat, thus allowing it to generate electricity during the day and at night. This is the tallest CSP project in the world and the first of its kind in the United States.
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- SunEdison, Inc. in a:
 - first-of-its-kind, \$1 billion “warehouse” debt financing that will fund the construction of its pipeline of renewable energy projects that it plans to drop down into its affiliated yieldco, TerraForm Power. The warehouse construction facility also included a \$500 million third-party equity commitment from First Reserve Corporation; and
 - \$280 million term loan for and a related equity investment into a “warehouse” vehicle that acquired a 521 MW portfolio of wind projects in Idaho and Oklahoma from Atlantic Power Corporation. The term loan facility, combined with equity provided by leading infrastructure investors, created a total of \$525 million for the “warehouse” vehicle.
 - Talen Energy Supply, LLC in a series of refinancing transactions consisting of a \$400 million Rule 144A/Regulation S high-yield offering of 9.5% senior notes due 2022, concurrent tender offers to purchase \$900 million of outstanding senior notes, a new \$500 million term loan B facility and the repricing of its existing \$600 million term loan B facility.
 - Virgin Islands Water and Power Authority in connection with:
 - the preparation of an RFP seeking proposals for solar generation projects in the US Virgin Islands and the negotiation of power contracts with three developers aggregating 20 MW of solar PV capacity; and
 - the negotiation of two power purchase agreements for 33 MW and 16 MW of electric power from two refuse-derived fuel and petroleum coke co-fired facilities to be built on the islands of St. Thomas and St. Croix (for \$440 million) by project developer, Alpine Energy Group.
- Mergers and Acquisitions**
- The AES Corporation in its:
 - \$27 million sale of three wind farms in Lake Benton, Minnesota; Storm Lake, Iowa; and Condon, Oregon, to ALLETE Clean Energy, Inc.; and
 - \$244 million sale of a 15 percent stake in AES US Investments, Inc. to La Caisse de dépôt et placement du Québec (CDPQ). As part of this transaction, CDPQ acquired an 18 percent stake in IPALCO Enterprises, Inc. from The AES Corporation for \$349 million.
 - The AES Corporation and Alberta Investment Management Corp. (AIMCo) in their \$853 million acquisition of Sustainable Power Group (sPower), the largest independent owner, operator and developer of utility scale solar assets in the United States, from Fir Tree Partners and its minority owners.
 - Airtricity Holdings Limited, owners and developers of wind energy projects, in the:
 - \$1.4 billion sale of its subsidiary, Airtricity North America, to E.ON AG; and
 - sale of its European renewable energy business to Scottish & Southern Energy Plc for an enterprise value of €1.455 billion.
 - ArcLight Capital Partners, LLC in the sale of a 49.9 percent stake in its 2.5 GW portfolio of five natural gas-fired power plants in Georgia to GE Energy Financial Services and a Singapore sovereign wealth fund. The portfolio of power plants make up the largest fully independent power producer in the southeastern United States.
 - Babcock & Brown in its disposition of:
 - three wind energy projects with a combined capacity of 184.5 MW to NextEra Energy Resources LLC for \$352 million; and
 - a wind power development portfolio (comprising a development pipeline of 4,000 MW of wind power in 11 states and four countries) to Riverstone Holdings LLC.
 - The Bank of New York Mellon in its acquisition of 100 percent of the Class B membership interests of Ventures, an affiliate of EDP Renewables North America LLC, for \$440 million in cumulative capital commitments. Ventures owns 100 percent of the membership interests in four wind farms located in Ohio, Oklahoma, Wisconsin and Indiana with a combined generation capacity of 363.1 MW.
 - Deere & Company in the \$860 million sale of its subsidiary, John Deere Renewables LLC, to Exelon Corporation. This transaction was named 2010 “Best M&A Deal” by *Power Finance & Risk*.
 - Duke Energy Corporation in two transactions totaling \$2.4 billion: the \$1.2 billion sale of its Brazilian business to China Three Gorges Corporation and the \$1.2 billion sale of its international businesses in Peru, Chile, Ecuador, Guatemala, El Salvador and Argentina to I Squared Capital Advisors, LLC.
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- Duke Energy Generation Services, Inc. in its acquisition of North Allegheny Wind, LLC, the owner of a 70 MW wind power project in Pennsylvania, from Gamesa Energy.
 - Dynegy Inc. in its:
 - \$3.3 billion acquisition of the United States fossil portfolio of Engie S.A., including the formation of a joint venture with Energy Capital Partners (ECP) to acquire the portfolio and Dynegy's related US\$150 million sale of common stock to an affiliate of ECP. In connection with the closing of the transaction, Dynegy acquired ECP's 35 percent interest in the joint venture and owns 100 percent of the acquired business; and
 - \$825 million acquisition of Ameren Energy Resources Company, LLC and its subsidiaries from Ameren Corporation.
 - Électricité de France S.A. in its \$4.5 billion acquisition of a 49.99 percent stake in the nuclear business of Constellation Energy Group, Inc.
 - Emera Inc. in its \$541 million acquisition of three combined-cycle gas-fired electricity generating facilities in New England from Capital Power Corporation.
 - Enel Green Power S.p.A. in its \$250 million acquisition via a tender offer of EnerNOC, Inc.
 - EnergySolutions, Inc. in its \$1.1 billion acquisition by a subsidiary of Energy Capital Partners II, LLC.
 - First Solar, Inc. in its sale of:
 - 8point3 Energy Partners LP to CD Clean Energy and Infrastructure V JV, LLC, an investment fund managed by Capital Dynamics, Inc., for \$1.7 billion (enterprise value);
 - the 280 MW California Flats Solar Project in Monterey County, California to Capital Dynamics AG;
 - its equity interests in the Switch Station project companies to affiliates of EDF Renewable Energy, Inc.; and
 - the Class B membership interests (the management stake) in the 250 MW Moapa project in Clark County, Nevada;
 - a 34 percent stake in the 300 MW Desert Stateline solar PV project in California to 8point3 Energy Partners, LP; and
 - the 11 MW Ranch Seco solar power generating facility under construction in Sacramento county, California to DESRI Rancho Seco Holdings, a subsidiary of D.E. Shaw Renewable Investments, L.L.C.
 - GenOn Energy, Inc. in its \$6 billion stock-for-stock merger with NRG Energy Inc., which created one of the largest competitive generators in the United States.
 - Great Plains Energy Incorporated in its approximately \$2.7 billion acquisition of Aquila, Inc., a distributor of natural gas and electricity, and Aquila's utilities in Missouri.
 - GS Energy Corp. and GS Global Corp., both affiliates of GS Group, and Fine Partners Corporation in their acquisition of oil and gas assets in Oklahoma from Longfellow Energy, LP and \$250 million commitment to jointly develop and operate the acquired oil and gas interests with Longfellow Energy.
 - Infigen Energy in the \$272.5 million sale of its U.S. wind business to Primary Wind Power, LLC, a portfolio company affiliated with ArcLight Capital Partners, LLC.
 - J.P. Morgan Asset Management in the acquisition of Sonnedix Power Holdings, an independent solar power producer with projects in Western Europe, Japan, Thailand, Chile, South Africa and Puerto Rico, by institutional investors advised by J.P. Morgan Asset Management. The acquisition comes less than two years after the two firms began partnering to pursue opportunities in the rapidly expanding global solar market.
 - K Road Power Holdings LLC in its sale of the 250 MW solar PV project on the Moapa River Indian Reservation in Nevada to First Solar, Inc.
 - The special committee of the board of directors of Kinder Morgan Inc. in connection with its consideration of the \$22 billion going-private leveraged buyout sponsored by Richard D. Kinder, other members of Kinder Morgan management, Goldman Sachs Capital Partners, American International Group, Inc., The Carlyle Group and Riverstone Holdings LLC.
 - Mariah Acquisition LLC in its sale of the Mariah North Wind power project to First Reserve Corporation.
 - NextEra Energy Partners, LP, a growth-oriented limited partnership formed by NextEra Energy, Inc. to own and operate clean energy projects, in its \$467 million initial public offering of common units representing limited partner interests.
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- NorthWestern Corporation in its \$900 million acquisition of 11 hydroelectric facilities and related assets from PPL Montana, LLC. Both NorthWestern and PPL Montana are electric utilities. Skadden also represented NorthWestern in the related acquisition financing.
 - Quantum Utility Generation, LLC in its sale of the 40 MW Passadumkeag wind-powered electric generating facility in Maine to a subsidiary of Southern Power Company.
 - Pattern Energy Group Inc. in its \$242 million acquisition of the 201 MW Post Rock Wind facility in Kansas and the 150 MW Lost Creek Wind facility in Missouri from Wind Capital Group, LLC and its affiliates.
 - A fund of Samchully Asset Management Co. Ltd. and The National Pension Service of Korea in their \$170 million acquisition of a 34 percent stake in the Neptune Gas Processing Plant in Louisiana from Marathon Oil Company. The transaction represents the first direct investment in a U.S. midstream asset by a Korean financial entity.
 - Southeast PowerGen, LLC, a joint venture between ArcLight Capital Partners, LLC, GE Energy Financial Services and the Government of Singapore Investment Corporation, in its acquisition of Mid-Georgia Cogen L.P. from Perennial Power Holdings, Inc.
 - Spectra Energy Corporation in:
 - the tax aspects of its \$28 billion merger with Enbridge Inc.; and
 - its \$1.5 billion acquisition of the Express-Platte pipeline system from Kinder Morgan Energy Partners, LP, the Ontario Teachers' Pension Plan and Borealis Infrastructure.
 - SunEdison, Inc. in its:
 - \$2.5 billion sale of TerraForm Global, Inc. and a 51 percent stake in TerraForm Power, Inc. to Brookfield Asset Management Inc. in connection with SunEdison's Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of New York;
 - \$15 million sale of its commercial and industrial division to Mitsui & Co., Ltd.;
 - \$43 million sale of its equity interests in TerraForm Private, LLC, a holding company jointly owned with John Hancock Life Insurance Company and DIF Infrastructure Americas, that owns 521 MW of operating wind projects in the United States; and
 - \$144 million sale of renewable energy projects in California, Hawaii, Maine, Texas and Utah totaling 2.1 GW to NRG Energy, Inc. in connection with SunEdison's Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of New York. This transaction was named "North America Power M&A Deal of 2016" by *Power Finance & Risk*.
 - Thyssen Petroleum USA, LLC in its acquisition of more than 30,000 acres of oil and gas leases in Alaska from AVCG, LLC and Ramshorn Investments, Inc., as part of an acquisition by three purchasers for an aggregate amount equal to \$100 million in cash plus further development commitments in excess of \$350 million for phase one development of the asset. Skadden also represented a subsidiary of Thyssen Petroleum Limited in its acquisition and development of oil and gas assets in Louisiana.
 - Wisconsin Energy Corporation and its subsidiary Wisconsin Electric Power Company in the \$1 billion sale of its Point Beach Nuclear Plant to FPL Energy, LLC, a subsidiary of FPL Group, Inc.
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