

# Private Equity Investment in Power Infrastructure Looks Bright

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## Navigate Legal Challenges That May Arise

With the nation's and the world's populations growing, so will the demand for power. Such demand on an aging infrastructure is certain to beget opportunities for investors seeking solid returns on projects in the U.S. and abroad. Private equity is playing an increasingly important role in the development and management of the infrastructure that creates, transmits and delivers electricity to homes and businesses.

Kfir Abutbul, a partner in Paul Hastings' Private Equity and Energy Practices in Houston, works closely with private equity firms that invest in – among other sectors – power infrastructure and related services. He says that

with utilities looking for liquidity from their power plants and transmission facilities, along with the need for a more reliable electricity grid and global emphasis on infrastructure development, private equity firms with money to invest will be competing on a wide range of opportunities.

"There is over a trillion dollars of dry powder to be invested by private equity firms," says Abutbul. "Investors aren't going to hand that money over to private equity managers just to sit on and capital will need to be deployed. As a result, there will be a lot of competition over assets as people look for quality returns. The power asset class should continue to offer attractive targets, and asset sellers will likely look to capitalize."

Abutbul also predicts: "As the world's nations modernize their power and other critical infrastructure, there will be rapid development coupled with appetite for transactions. People will understand there's lots of opportunity and that will drive continued growth."

## Where does growth lie?

This growth will not be limited solely to the U.S. and should involve traditional power sources as well as renewables. Governments and consumers are focused on renewable power, but the need for grid reliability will continue to drive investment in cleaner, but conventional power generation assets and the delivery of power to customers. While Abutbul notes that his clients' primary focus continues to be in the safety of the U.S., he has assisted clients with transactions involving targets with a global presence and assets located in Asia, Africa and throughout Latin America.

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“The current administration is focused on expanding investment in infrastructure coupled with potentially significant de-regulation, and this is focusing investors on developing these assets,” explains Abutbul. “Taking on and renewing aging assets, coupled with the political, societal and economic focus on renewable energy will lead to a great deal of activity in the asset class for the foreseeable future.”

What benefits do clients reap by investing in power infrastructure? Most importantly, such investment comes with a long term outlook and traditionally consistent, strong returns. Compared to other energy-related industries, where deal flow and returns are significantly impacted by the prices of oil & gas exploration and production, Abutbul describes the power infrastructure industry as, “...something seen as more fundamental to our economy; you can’t have continued economic development in most other aspects of the economy without a consistent, reliable power network. And it’s in a state of renewal.”

“We see new technologies coming into the market (energy storage being an example), disrupting it, creating opportunities for sophisticated investors to deploy their money in a very efficient way that’ll give them an opportunity to be a part of the renewal process and participate in the energy markets; and with, relatively speaking, low commodity risk,” says Abutbul.

Traditional energy sources are still a large part of the assets receiving investments. However, sustainable energy is a technology that has been receiving significant attention for some time. “Folks are very focused on it,” observes Abutbul. “There’s a drive that’s not just political, but societal in the sense of creating a positive impact on our society that goes beyond the purely economic incentives.”

This mix of traditional and sustainable power investments is occurring in the U.S. and globally. “Each country is different. They have different priorities, governments, outlooks and priorities. There’s more financing and leverage available to do renewable power work, but I’ve also seen coal power project developments and transactions. Some countries in the developing world are growing rapidly and are in need of reliable, conventional power at the cheapest possible price. A reliable grid will allow these countries to deliver tangible economic benefit to their citizens, though we expect to see more emphasis on renewable power development to balance increased economic growth. One area that could be of particular focus for developing-world growth will be nuclear power,” explains Abutbul.

### **Overcoming legal obstacles to achieve objectives**

Private equity firms face numerous legal obstacles in achieving their goals in this highly regulated and investment-heavy market. Challenges vary depending on the jurisdiction, the assets receiving investments, the contracts involved, and the many counterparties that will need to be engaged to lead to a power project’s success.

“When you execute an acquisition for a private equity client you have to understand their commercial goals first and be a part of the deal team by identifying, analyzing and managing the associated legal risks in the context of those goals,” says Abutbul. “Clients just want the answer, and they want their lawyers to be able to use our specialized knowledge in delivering that answer. In the power space, various problems may arise – whether that’s local regulation changes, compliance issues or even problems with specific components that could be catastrophic to the projects. [Private equity clients] expect us to not just raise these issues, but tell them the solution.”

Partnering with a law firm that has global reach and one with deeply developed finance, private equity and mergers and acquisition practices is critical to successfully managing complex transactions. “Power deals tend to be very complicated and involve multi-disciplinary issues,” Abutbul says. “It’s vital to have the right team with the necessary expertise to deliver best-in-class advice to clients operating on a global scale.”

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