

FROM YOUR PARTNER IN ENERGY EDUCATION

BEST GLOBAL PRACTICES Power Contracts & Negotiations



EXPERT COURSE TRAINER
WILLIAM I.Y. BYUN



Power Contracts & Negotiation

TAP INTO THE BEST GLOBAL PRACTICES ON POWER CONTRACTING, APPLICABLE TO THE PHILIPPINE SETTING

In three (3) days, the participants will:

- Gain thorough understanding of various types of power purchase structure, agreements and provisioning
- Acquire best practices from mature, deregulated and competitive markets
- Gather tools and techniques in establishing win-win agreements
- Learn to manage risk in the power industry market

Who Should Attend:

Power industry professionals involved in Project Management, Legal Management, Finance, Purchasing, Energy trading, Risk Management, Business Development



Meralco Power Academy (MPA) is a premier training and energy education provider that leverages on MERALCO's 113 years of industry experience, expertise and network. Its array of technical programs lend industry practitioners a competitive edge through top of the line learning solutions which are delivered in a variety of methods. MPA provides the learning platforms and coalitions for leaders, decision makers, managers and advocates by facilitating technical exchanges on global innovations and technologies on power and energy.



EXPERT COURSE TRAINER WILLIAM I.Y. BYUN

William is a New York transactional infrastructure and finance attorney with more than 25 years practice in active deal and investment advisory, especially for emerging markets energy deals.

He is also the Principal managing a US\$ 100 million infrastructure fund in Asia which focuses on national industrial policy related infrastructure investment such as for electric power generation including for conventional baseloads and for renewable energy. Among other experiences, he had also been the Managing Director for Asia and the Middle East for the NYSE-listed AES Corporation's renewables and climate change, had also engaged in over several thousand MW of deals covering thermal, gas, biomass, solar, geothermal and others in China, India, Northeast and Southeast Asia, as well as several billion USD of corporate finance deals for Asian power utilities, and also advised various governments in Asia on renewables and energy policy.

William was a US Fulbright Scholar to the Ministry of Finance of Korea, and had been with the Office of General Counsel with US OPIC. He has degrees from the University of Chicago (economics), University of Michigan (law), and the University of London (SOAS and LSE, finance and sociology, respectively). In addition to publishing and lecturing widely in the electric power generation field, he is also an adjunct faculty for the MBA program at California State University lecturing on Global Business Strategy.



COURSE OUTLINE

Power Contracts & Negotiation

DAY 1

Session 1: The role of contracts in electricity markets

Overview of electricity functional markets

- Generation
- Wholesale
- Transmission
- Distribution
- Retail

Session 2: Overview of common power/electricity contracts

- Overview of different electricity whole sale markets
- Competitive markets versus singly buyer markets
- Offers/bids in wholesale markets
- Sale & purchase agreements and Power purchase agreements
- Contracts for Differences
- Transmission agreements
- Distribution agreements
- Retail agreements
- System operator agreements
- Instantaneous reserves agreements
- Demand side management agreements

Session 3: Overview of contracts for power projects

- Project vehicle agreements (incorporated or unincorporated joint ventures)
- EPC (procurement and construction agreements)
- Operating agreements
- Financing agreements
- Transport agreements (transmission and distribution)
- Feedstock (coal, gas, LNG) supply agreements
- Insurance

Session 4: Preparation for the negotiation of power contracts

- Understanding relevant legal principles
- Composition of negotiation team
- Understanding the implications of what you say, do and hear during negotiations
- Understanding the implications of negotiation documents
 - Confidentiality
 - Minutes
 - Letters of intent
 - Heads of Agreement/Memorandum of Understanding
 - Draft contracts
- Key negotiation success factors
- Key negotiation techniques
- Key negotiation tactics (including counters to manipulative tactics and avoidance of common mistakes)

Session 5: Preparation for negotiation/power contract preparation

- Risk identification, assessment and allocation
- Identification and assessment of BATNAs (best alternative to a negotiated agreement)
- Key techniques to mitigate disputes arising during power contracts of common mistakes

DAY 2

Session 1: Key issues to be negotiated in particular power contracts

- Power purchase agreements (project specific and non-project specific)
- Contracts for differences and other hedges

Session 2: Key issues to be negotiated in particular power contracts (continued)

- Transmission agreements

- Distribution agreements
- Retail agreements

Session 3: Common issues in the negotiation of power contracts

- Force majeure
- Boiler plate provisions (so called)

Session 4: Power contracts with governments and state-owned enterprises

- Statutory authority and ultra vires
- Executive necessity
- Sovereign immunity
- Sovereign risk
- Political or country risk
- Political risk insurance
- Stabilisation clauses
- Other contractual mechanisms

Session 5: Dispute resolution procedures

- Informal dispute resolution procedures
- Formal dispute resolution procedures
- International arbitration for private sector party to party power contracts
- International arbitration with governments
- Key issues in negotiating international arbitration clauses

Sample Cases and Lessons Learned

Sample Contract Templates

DAY 3

Session 1: Renewable Energy Power Generation

- Overview of renewables
- Structural differences between baseloads and renewables
- Characteristics affecting agreements
- Business drivers for renewables

Session 2: Renewable Energy Programs

- Types of renewable energy programs: A look at program terms
- Feed-in Tariffs
- Subsidy programs
- Retail vs. Grid
- Current market directions affecting contracts

Session 3: Types of Renewables and Contracts

- Overview of renewables in terms of fuel and contracts characteristics
- Financial investment drivers (from investor/manufacturer side) and characteristics affecting legal
- Biomass, solar, geothermal, wind, etc., characteristics affecting legal structures
- Examples & illustrations

Session 4: Practical Legal Considerations

- Timeline considerations as a parameter for legal agreements
- Timeline management risks (enforcement and execution)
- Practical legal risks
- Practical legal enforcement risks (emerging markets, renewables)
- Costs and enforcement considerations

Session 5: Exogenous Market Directions affecting Legal Agreements

- Current market trends affecting baseloads
- Renewables trends and directions
- Carbon & Climate Change Issues wild cards
- Legal Services Management: costs, services, providers and management of services

* Class involves extensive use of actual case studies on an interactive basis comparing actual results and assessing alternatives.

**Contract reviews will include discussion and drafting analysis of contract provisions from actual contracts