

The role of the Energy Manager is more critical than ever. What began as the person responsible for interacting with the local utility for quality of service and delivery has evolved into a key leadership role with direct contact into the C-suite.



Factors driving this expanded role parallel a dynamically-changing energy industry, including regulatory changes across multiple regions and markets, supply and demand-side planning, sustainability programs, and new technology adoption to name just a few.

"The Evolving Role of the Energy Manager", Edison Energy Blog, June 22, 2017



Energy Manager 3.0

The Energy Manager's role now takes on added significance within a company. The Energy Manager 3.0 is an active participant with the C-suite. Energy is treated as a strategic asset, and its use is viewed holistically:

- The organization is aligned to support an enterprise-wide view of energy;
- Data analytics inform the optimization of energy procurement, cost-saving programs, sustainability and resiliency programs; and,
- Energy supply, capital investments and operations are all aligned organizationally to optimize energy use throughout the company, in all of its diverse geographies and regions.

"The Evolving Role of the Energy Manager", Edison Energy Blog, June 22, 2017



Energy Management 3.0 Program

- 1) Energy Data Management
- 2) Energy Procurement
- 3) Regulatory & Legislative
- 4) Risk Analysis / Mitigation
- 5) Facility Energy Optimization
- 6) Environmental / Sustainability



Energy Data Management

Understand the energy usage and spend and timely processing of invoices:

- Utility and energy supplier bill data collection
- Invoice verification / reconciliation
- Utility and energy supplier bill payment
- Usage, cost and performance/savings reporting
- Forecasting and modeling
- Sub-metering

Many companies use or are looking to use third party providers of systems designed specifically for energy data management. Companies need to perform a detailed legal and commercial review of the agreements for this service including a detailed scope of work and key performance indicators. Clark Hill can assist clients with the selection of the appropriate system/provider to meet the client's needs and ensure the best contract/agreement is put in place to protect the client and their information.



Provide energy supply solutions that deliver both reliability and competitive cost:

- 1) Commodity (electricity, natural gas, etc.)
 - A. Open Market
 - Supplier identification and evaluation
 - Contract review and negotiation
 - RFP process
 - Market monitoring and reporting
 - B. Regulated / Monopoly Utility Supply
 - Utility tariff analysis / optimization
 - Build leverage (involvement / persistence, bypass, user groups, political pressure)
 - Utility negotiation / special contracts
- 2) Transportation / Delivery Optimization
- 3) Misc.
 - Storage
 - Balancing
 - Ancillary Services
- 4) Utility Tax Evaluation and Optimization
- 5) Distributed Energy Resource / Behind the Meter / Self Generation

Clark Hill provides professional and legal support in all areas of energy procurement including but not limited to:

- Reviews of supplier backgrounds and creditworthiness
- Retail choice market supply contract review and negotiation support
- Analysis of existing utility tariffs to explain details of current rates, rules and obligations (for instance industrial customers get into problems with sharing / providing electricity to fence line facilities such as third party industrial gas facilities because they do not understand the utility tariff rules)
- Utility negotiation and development of special / new tariff rates
- Evaluation of commercial and legal ability for utility natural gas bypass
- Utility tax evaluation and optimization. Provide expertise in state tax laws, available exemptions and negotiation of new tax exemptions or credits.
- Distributed generation / self-generation facilities environmental permits, interconnection agreements, net metering agreements, etc..



Regulatory and Legislative Analysis and Support

Track, report and engage in regulatory and legislative issues that could impact the cost and/or reliability of energy supply:

- Utility rate cases filed at the state public service commission
- Regional transmission organization (RTO) tariff and wholesale market
- Federal Energy Regulatory Commission (FERC) rule makings that impact the wholesale energy market
- State and federal legislative energy policy

State industrial groups which provide a real cost benefit through cost sharing among the member companies. However, Clark Hill also supports clients that still pursue individual intervention in utility rate cases and seek specific state or federal legislative policy.



Energy Supply Risk Analysis / Mitigation

Maintain or improve the quality of the work environment, optimize service reliability, increase productivity, and enhance safety of the workplace:

- 1) Physical Supply & Delivery Risk
 - Understand points of equipment ownership transition from utility to customer
 - Equipment Ratings, Emergency Load Shedding Procedures, Redundancy / Backup, Common Mode of Failure for "Redundant" Systems, etc
 - Maintenance and inspection programs
- 2) Contractual / Cost Risk
 - Firm vs Interruptible, Liquidated Damages, Replacement Supply Provisions, Force Majeure' Liability, etc.
 - Financial Hedging
 - Fixed price vs floating price contracts

- In order to address liability risk and maintenance / equipment failure risk, it is very important to evaluate the physical supply and delivery points and understand where ownership transitions between utility / supplier and your facilities. Companies then need to make sure they have facilities agreements with the utility / supplier. These agreements can be complicated and need careful legal review. [Examples 1. A municipal gas utility claimed they owned the natural gas lines under the ground all the way into the company's manufacturing facility up to meters on the side of the production facilities. However, there were no contracts/agreements in place dealing with equipment ownership, maintenance or most importantly liability. 2. A large transportation fuel tank used at a manufacturing facility where the third-party fuel supplier claimed they owned the tank but there was no agreement in place.]
- The contractual / cost risk items are a critical part of the energy supply contract legal work. In addition, for companies using financial hedging instruments there are significant risk that need to be addressed through a legal review of the trading agreements.

Facility Optimization /
Energy Conservation & Efficiency

Deliver facility energy usage services:

- Commissioning / Start-up
- Assessments
- Evaluate and implement demand response
- Develop action plans and maintenance plans
- Education
- New technology / equipment evaluation
- Capital project / equipment replacement management
- Behavior modification / usage accountability

This is another area where industrial companies use third parties to perform these services and even allow the third party to install new equipment. Clark Hill to provides legal expertise related to these Energy Service Provider Company (ESCO) agreements including terms and conditions, liability, measurement and verification, etc.

Environmental / Sustainability



Maintain or improve the environmentally responsible use of energy throughout the clients organization and explore renewable energy supply opportunities that meet the clients goals:

- Understand carbon footprint
- Develop climate change / GHG reduction strategy
- Evaluate renewable energy supplies

Clark Hill provides extensive environmental and sustainability expertise including procurement of renewable energy through direct access to suppliers or improved utility renewable supply tariff rates.