



FALTISCHEK

lawyer to the energy industry, calls for Long Island power independence

Vivian Leber

About a decade ago, big proposals were in play to build both large and small new generation plants to meet Long Island's burgeoning power appetite and to lay a cross-Sound electrical conduit as well as a natural gas pipeline. With his experience in construction law, and as a former LIPA trustee, Michael L. Faltischek was in demand for his knowledge of the energy industry's legal and financial complexities.

As founding partner of Ruskin Moscou Faltischek, P.C., he established the Energy Law Practice Group within its Corporate & Securities Department. He has built a multi-disciplinary corporate legal team with expertise in environmental regulations, real estate, zoning and land acquisition, IDA and municipal development incentives, litigation, government relations, financial services, and construction law, among other specialties.

Predictably, not all of that period's ambitious plans moved ahead. "In our region, we often lack dexterity to get things done," Faltischek says. "Once you identify what your needs are, you should find a way to get to solutions quickly." For example, the Caithness LI Energy Center – a 350 MW extra low-emissions, cost-efficient base load power plant in Yaphank – was the first major new Long Island plant to come on line in 50 years. First proposed in 2002, it finally opened in August 2009, now supplying nearly 20% of LIPA's power needs. "That's a slow process," Faltischek says. Building a plant should take 30 months with environmental reviews adding another 18 months. The extra time only adds to project costs and, therefore, what a person pays for electricity.

Of Long Island's aging power generation facilities, Faltischek says, "It's like driving a 50 year old car; maintaining these

old plants just costs too much." In due course, LIPA should have another efficient new power generation plants. It has been deliberating for the past 18 months between the choice of two facility types and builders, and RMF-PC is representing one of those companies.

Governor Andrew Cuomo's ambitious proposal to build new transmission lines running North to South, stopping at NYC (the NYS Energy Highway), would be helpful but insufficient for Long Island's needs.

"My view is that it is imperative that Long Island itself generate and distribute enough power to meet all basic day-in-and-out needs," Faltischek says. For peak demand times, during heat waves, importing power would still be required, he says, but with Long Island situated at the tail end of the electrical system, its 2.8 million people are not well served by externally sourced power, even if it is cheaper.

Faltischek is a member of the Long Island Association's Special Energy-Committee, which prepared the LIA's recently issued response to The Governor's proposal to privatize LIPA: now would not be the right time, the committee said. The LIA noted that while private entities have their efficiencies, LIPA, as a government authority is eligible, thankfully, to obtain about 90% reimbursement of Superstorm Sandy costs from FEMA. That leaves ratepayers with a burden of \$80 million, contrasted with an investor-owned utility such

as Con Edison, which cannot tap FEMA funds, having to shoulder costs along with ratepayers that may total \$1 billion. Falitschek's law firm represents PSEG, the utility that will succeed National Grid in January, 2014. PSEG, as LIA and others favor, will likely manage the storm response when LI's next big weather event strikes.

Faltischek commends Brookhaven National Laboratory and The Advanced Energy Research & Technology Center (AERTC), as stellar examples of the region's technological collaboration and leadership on energy innovation. He helped to establish AERTC, and as Vice Chair of its Advisory Board is called upon to analyze and structure funding of its operations. Renewable energy research and development is progressing well. However, he cautions, "Alternative energy solutions are still pricey and will take time to bear fruit. Given our 150 years of gas supply, we should, between now and then build our regional energy independence with highly efficient natural gas plants." He is also Counsel to New York State Smart Grid Consortium.

Faltischek is engaged in a number of other professional, educational and civic activities. He is a founding member and Chairman of the Long Island Angel Network, which provides the region's technological businesses and entrepreneurs with access to early stage capital. He sees his role with the Angel Network as dovetailing his work with the AERTC and the Smart Grid Consortium in providing funding to commercialize energy technology.

Falitschek has served in leadership and advisory roles with many community groups, including Camp Sunrise, The Theodore Roosevelt Council of the Boy Scouts of America, the Old Westbury Gardens Foundation, and the Frank G. Zarb School of Business at Hofstra University. He also served as Chairman of the Long Island Regional Board of the Anti-Defamation League, which protects human and civil rights.

Asked to explain his motivation to take leadership roles in those and other organizations, Faltischek says, "I join worthwhile groups and work to advance their interests. I don't seek it, but people ask me to take on a larger role, which I am happy to do. I enjoy building a consensus in the decision-making process for the organization.

At the AERTC Energy Conference April 30-May 1 at the NYC Javits Center, Faltischek will chair a program on energy industry equity financing.

Michael L. Faltischek, is a Senior Partner of Ruskin MoscouFaltischek PC. Founded in 1968, the Uniondale, LI, firm has 60 professionals and 130 staff. With expertise in the law pertaining to energy, construction, the environment and financing, the firm often is instrumental to the advancement of Long Island's major energy technology projects.

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