# Presenter

**John L. Spilman Jr.**
Partner | Richmond
+1 804 775 4348
jspilman@mcguirewoods.com

Jake focuses his practice on transactional and advisory matters, primarily involving renewable and conventional energy (particularly solar, wind and energy storage) as well as electric vehicles and EV technologies.

Jake represents and advises purchasers and sellers, both private and public companies, in project M&A transactions, mergers and acquisitions of platforms and operating companies, and joint ventures. In addition to his mergers and acquisitions work, Jake advises clients on general corporate matters.

Before joining McGuireWoods, Jake was an associate at a leading international law firm in New York. While in law school, Jake served on the editorial board of the Virginia Journal of International Law, was a chair for diversity of the Student Bar Association and was the pro bono coordinator for the Virginia Environmental Law Forum. In addition, Jake interned with the Honorable Jerome B. Friedman, U.S. District Judge for the Eastern District of Virginia.



1



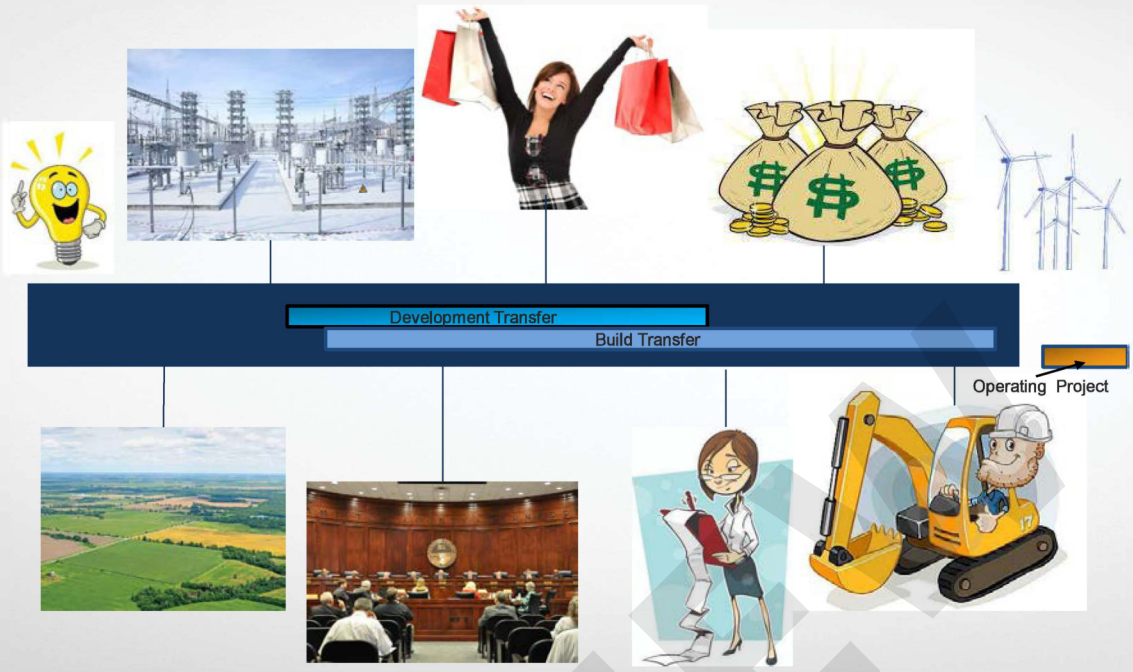
# Transaction Structure (Legal) – M&A

- Stock Deal vs Asset Deal
  - Consents (Contracts and Permits)
  - Liabilities
  - Regulatory
- Simultaneous Sign and Close vs Delayed Sign and Close
  - What stage of development does buyer want to take over project (pre-construction vs post-construction)?
  - Risk
  - Regulatory
  - Consents
  - Other Timing Issues
  - Portfolio Transactions



2

# A Project Timeline






3

# Pricing Issues

- Execution Consideration
  - Deposit (refundable vs non-refundable)
- Closing Consideration
  - Percentage of Purchase Price paid at Closing
- Post-Closing Consideration
  - Payments made after certain Milestones are met:
    - Notice to Proceed
    - Delivery of certain components
    - Mechanical Completion
    - COD
    - Final Acceptance
- Pricing Adjustments
  - Model Adjustments
  - Capacity
  - Production



4

# Pre-Close/Post-Close Liabilities

- Bright- Line Liability:
  - Project Company Pre-Closing and Post-Closing Liabilities. Seller shall (i) be responsible for all Project Company Pre-Closing Liabilities and (ii) cause all Project Company Pre-Closing Liabilities to be paid, performed and discharged by their applicable due date, and Buyer shall be responsible for all Project Company Post-Closing Liabilities.

- Unusual in Stock Deal – but may be appropriate in Project Company deal.



5



# Closing Conditions

- Often the most negotiated aspect of transaction
- Deal Specific – depends on status of Project
- Typical Closing Conditions include:
  - *Commercial/development items previously discussed:*
    - Obtaining Permits/CUPs (and satisfy certain CUP conditions)
    - NTP; MC (or other milestones)
    - Survey and Title Commitment
    - Lease
  - *Items more legal in nature:*
    - Project Contract Amendments
    - Replacement Credit Support



6

# Title search: M&A: Introduction to MIPA (Membership Interest Purchase Agreement)



First appeared as part of the conference materials for the
2025 Renewable Energy Law Essentials session
"M&A: Introduction to MIPA (Membership Interest Purchase Agreement)"