

## Katy Shurin Talks With Law360 About Texas Winter Storm's Effect on Power Contracts

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Haynes Boone Partner Katy Shurin was quoted in a *Law360* article about how Winter Storm Uri in February changed the way energy producers and financiers structure power hedges and negotiate around calamitous weather events.

Below is an excerpt:

...Several power producers lost big during the storm — ranging from hundreds of millions to about \$1 billion — after they were forced to buy energy resources from a spot market that skyrocketed during the February storm. In the wake of the chaos, attorneys have been working to shift their clients toward more forgiving deal structures that take into account the potential that future storms could again grind energy production to a halt.

That means a move away from fixed-shape hedge deals that force producers to buy energy at exorbitant prices in those dire circumstances, and a renewed interest in nailing down exactly when force majeure is triggered — and whether another storm like Uri would count as an act of God.

"We are definitely seeing sponsors and off-takers less willing to enter into fixed-shape hedges in ERCOT now," Kathryn Shurin of Haynes Boone told *Law360*. Off-take agreements are essential contracts between an energy producer and a company buying that energy, generally involving an agreed-upon amount or schedule.

Instead, attorneys say they're seeing more negotiation of what are called unit-contingent deals, which generally only apply to produced energy. In other words, while fixed-shape hedges are fulfilled based upon a predetermined volume of power delivered to the hedge owner regardless of how much power the project actually produces, unit-contingent deals revolve around the power that is actually produced at the plants. In the case of Uri, hedge sellers with fixed-shape deals had to supply power regardless of the fact that some power plants stopped producing entirely. Under unit-contingent deals, the idea is that pressure will be alleviated during extreme conditions that shut down operations.

Shurin said she's seeing entities in the sponsorship, off-take, lending and tax equity segments of the energy market all restructure hedges that were either signed up or being negotiated as fixed-shape hedges. Those entities are now looking at more of a unit-contingent structure instead of a deal focused on fixed volume, she said.

To read the full article, click [here](#).