

■ INDEPTH FEATURE Reprint October 2022

# ENERGY SECTOR

Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in the energy sector.

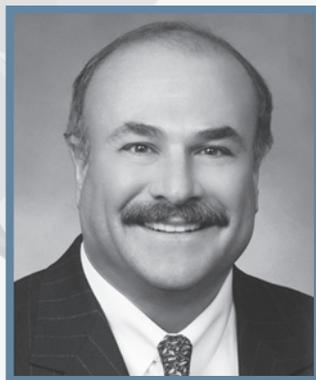




# UNITED STATES

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Clint Vince is the chair of Dentons' US energy practice and co-chair of Dentons' global energy sector for the US region. He is one of the leading energy lawyers in the US, widely recognised as a 'trailblazer' for his cutting-edge theories and solutions within the energy industry. He also co-chairs the Dentons Smart Cities & Connected Communities Think Tank.

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**Q. Could you outline some of the major trends in the energy sector in the US over the last 12-18 months? How would you characterise energy security and supply issues, and their affect on energy prices, for example?**

**A.** We are in the middle of the biggest energy crisis we have ever faced. The most significant mega-trend is a jagged transition from globalised energy markets with relatively low fuel prices and an orderly sense of energy supply to a geopolitical cold war with Russia and a highly unstable relationship with China, which has caused energy inflation for all fuel categories and has made energy security a national imperative. Simultaneously with this trend, there is a realisation that we need to move at warp speed to decarbonise. Transformative change that incorporates greater emphasis on the vital importance of reliability, resilience, affordability and equity is urgently needed – a huge challenge given perceived tensions between these objectives. We also need a dramatic increase in our transmission grid infrastructure, especially on large interstate

projects, if we are going to accommodate a massive increase in renewables.

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**Q. How are energy companies responding to growing pressure to address environmental, social and governance (ESG) issues across their operations?**

**A.** The environmental, social and governance (ESG) movement will be a game changer but will be politically fraught. The US Securities and Exchange Commission (SEC) has issued controversial and aggressive rules on ESG and the corporate world is now scrambling to find ways to present realistic programmes. Many utilities have emissions reductions goals for their portfolios, but are struggling with exactly how to get there, and with what ‘environmental justice’ should look like, particularly with respect to existing facilities in disadvantaged communities. Utilities are responding far more to public pressure and pressure from investors than to government policies. The pressure from investors for companies to adopt ESG and similar policies is so significant that conservatives are now trying to bring lawsuits and enact public policies

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*Public pressure is rapidly causing coal-fired generation to be eliminated from the US portfolio almost entirely.*

to prohibit ‘woke’ investment policies by investors. Utilities are being forced away from coal and other fossil fuel-fired generation, and companies will need to present compelling programmes for decarbonisation.

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**Q. What effect are CO2 emissions reduction targets having on energy companies in the US?**

**A.** The combination of the energy crisis, the continued impact of the coronavirus (COVID-19) pandemic, the emphasis on ESG, increasingly turbulent weather patterns, and a divisive political landscape have created tremendous uncertainty. However, recent federal legislation will spur deepened investment in low carbon technologies to accelerate the move away from fossil fuels. The bipartisan Infrastructure Act, the Chips and Science Act, and the Inflation Reduction Act employ a series of incentives, such as tax credits or direct funding, rather than penalties or carbon taxes, to support the deployment of clean power. Even so, companies are faced with calls for increased reliability and resiliency and the environmental community’s desire

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to go ‘clean’ and rely solely on wind and solar power. Even with battery storage, the technology is not quite at a point where reliability can be assured solely with those resources, but the suggestion that continued reliance on nuclear and natural gas may be required is met with great hostility by the environmental community.

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**Q. Have there been any recent, notable energy policies or regulations introduced to encourage progress toward green objectives? What is the outlook for traditional forms of energy generation?**

**A.** In addition to the bipartisan Infrastructure Act, the Chips and Science Act and the Inflation Reduction Act, there have been new international trade deals in fuels and essential components in clean energy technologies, especially critical minerals essential for renewable power and electrification, including electric vehicles (EVs). Additionally, executive orders have been issued to boost supply chains and accelerate the development and deployment of clean technologies. Certain production is now deemed essential to national security, which allows the Department of Defense to use

funds to support that production, such as some mining and processing. The current administration has also reinstated oil & gas leases on federal lands. Public pressure is rapidly causing coal-fired generation to be eliminated from the US portfolio almost entirely. Natural gas-fired generation will be harder to eliminate, as many of the policies that regulators are moving toward to support reliability and resiliency will likely require incentivising dispatchable generation.

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**Q. As the world continues its energy transition, what trends and opportunities are you seeing in clean energy? How would you characterise technological innovations, project development and investment activity in this space?**

**A.** There is a tremendous amount of money coming into the clean tech industry, both from the federal government and private industry. This influx of funds coincides with a major trend toward electrification, which, combined with a transformation to net-zero emissions, places increasing demand on transmission and distribution systems, which will also require investment. The Inflation

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Reduction Act will increase investment in traditional renewables, such as wind and solar, as well as zero emissions sources, such as nuclear. There also is growing interest and investment in hydrogen and carbon capture. The anticipation is that these technologies, though not yet fully proven to be economically viable or feasible, may help bridge the transition from fossil fuels to renewable energy.

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**Q. What do you consider to be the main risks and challenges for energy companies as they assess their operational strategies?**

**A.** Major risks include cyber intrusion, climate change and turbulent weather, political chaos and supply chain issues. Add to this list the increased demand on the system from electrification, increased population and industry shifts such as cryptocurrency and bitcoin mining, regulatory volatility and uncertainty, and the difficulty of accomplishing ESG goals and eliminating carbon emissions and other pollutants at an accelerated pace without damaging reliability. Energy companies are now operating against a landscape of continuous disruption, and

resilience and agility will be key aspects of any operational strategy going forward.

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**Q. Over the months and years ahead, what major developments do you expect to see in the energy sector in the US? What issues are set to shape market activity?**

**A.** The impact of global instability will continue to make its impact felt, creating new risks but also new opportunities. The shift from a globalised energy market to a geopolitical cold war with Russia and a highly unstable relationship with China has caused energy inflation for all fuel categories and created supply chain risk that is important at the national level, but also implicates foreign policy as essential components were derived from places that are no longer viewed as reliable or stable trading partners. We can expect intensified focus on risk management as the tool to improve energy security to ensure that we are prepared for and can respond to disruptions. Recent federal policies and new legislation will also contribute by serving as support for state-level initiatives. □



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