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POWER BROKER: Manatt, Phelps & Phillips has hired veteran attorney Rongjie Ma to help it zero in on alternative-energy deals involving companies from both countries. Ma says Chinese companies are more willing than before to pay market legal fees.

Looking East

Manatt hopes China will add spark to green energy practice

By Petra Pasternak
RECORDER STAFF WRITER

The credit crunch and tax-break uncertainty were pulling Charles Ferguson's energy practice into a lull. Three deals in the billion-dollar range stalled in the past year, thanks to the souring U.S. business environment, said the San Francisco-based energy lawyer.

So he and his firm turned to China.

With its booming economy and growing investment in renewable and alternative energies — which account for about 75 percent of Ferguson's practice at Manatt, Phelps & Phillips — China looked like a source of potential new business.

"U.S. companies are not moving forward with new deals," Ferguson said, referring to the alternative energy field. "I think that only about 15 to 20 percent of the current [U.S.] solar energy projects will be pushed through to completion, unless the tax and credit situations are straightened out soon."

Ferguson sees promise in China's solar, wind, biofuels and ocean energy companies, which he says are developing infrastructure much more rapidly than companies here. Some are eager to break into the U.S. market through alliances. Others are looking for capital or technology investment from American businesses. Ferguson,

COVER STORY

who's been an energy regulatory and litigation lawyer for the past 30 years, believes he can help companies, here and in China, overcome government hurdles in each other's countries.

Although many big U.S. law firms have been doing business in China for years — often in software and manufacturing — and have opened offices there, few mid-sized firms have followed suit. And for good reason. For some companies and lawyers, China hasn't been as easy as hoped.

Manatt Co-Chairman Gordon Bava, who is based in Los Angeles, said that while the 400-lawyer firm is not yet prepared to open an office, its lawyers are sending out feelers for opportunities in energy and other areas of business the country is not traditionally known for, including financial services and entertainment.

To build up its connections in China, Manatt in May hired lawyer Rongjie Ma, a veteran who has spent more than two decades practicing law in China and another 30 years working for U.S. firms on international transactions.

Ferguson said Ma is helping to identify Chinese wind turbine manufacturers and solar power companies that are eager to enter U.S. markets through a partner here and to find partners in China for U.S. companies that want to do business or invest there.

"We believe — but part of what Rongjie is going to be helping to confirm in a fairly short period of time — that there will be an enormous wave of investment from China into the United States," Bava said. "It is already starting," he added, pointing to China Minsheng Banking Corp., which agreed last year to spend up to \$317 million to increase its stake in San Francisco's UCBH Holdings Inc. and Suntech Power Holdings Co., a Chinese maker of photovoltaic cells, which opened its American headquarters in San Francisco last fall.

"During the last three to five years, the situation has changed," Ma said. "China has more hard currency, they need American lawyers and consulting help. Chinese companies are more willing to pay us more money, but I have to show them that I have the capability to promote business for them."

Ma was a political prisoner during China's Cultural Revolution, and 15 years ago, he was

the first person in California to be given a “Certificate of Registration as a Registered Foreign Legal Consultant in the Law of the People’s Republic of China.” Before retiring in 2004, Ma had worked in a similar capacity at Foley & Lardner. He also helped LeBoeuf, Lamb, Greene & MacRae open a China office in 1997.

Media reports seem to underscore China’s alternative energy potential. A recent *Economist* article reported that China has a large wind-generation capacity, which is expected to grow by two-thirds this year. The country is also the world’s second-largest manufacturer of solar panels, according to the magazine.

CAUTION

While many observers agree that China has the need and potential to develop alternative energy, some caution that the market is still very young. Energy partners at other firms warned that it’s too soon to tell how much work will materialize.

Michael Hindus, a San Francisco energy partner at Pillsbury Winthrop Shaw Pittman, which has an office in Shanghai, said his firm focuses on Chinese investment in the U.S. and vice versa, most of which flows into the high-tech sector from software and hardware makers. He says he has yet to observe the kind of deals that Manatt describes. “I’m just not sure that we’re seeing it yet,” he said, “and I don’t know when we will.”

“We’re not seeing any Chinese investment in the U.S. in terms of solar and wind equipment,” he said. But “we fully expect Chinese companies to be gearing up to export nuclear technologies into the USA,” Hindus added, “as soon as they develop sufficient capacity.”

At 500-lawyer Davis Wright Tremaine, where alternative power transactions account for about 95 percent of the energy practice, Seattle partner David Domansky said China shows signs of growth in both inbound and outbound investments.

“We’d love to do energy work in China,” he said. “China recognizes that it has an environmental problem and is expanding wind and solar resources.”

But the one alternative energy company he said he knew of in China that would like to break into the U.S. market is in research phase rather than in execution mode, he said.

CHINA POWER

Alternative energy is still a small but growing part of China’s economy, said Baker & McKenzie M&A partner Bing Ho, who used to head the firm’s Beijing office. Baker, a firm of about 3,000



ENERGETIC STRATEGY:

Manatt, Phelps & Phillips partner Charles Ferguson, a longtime energy regulation and litigation lawyer, says his firm can help Chinese alternative energy companies that are eager to break into the U.S. market forge alliances with American companies.

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lawyers, represents some of the country’s biggest traditional energy companies, such as China National Offshore Oil Co. and Petrochina.

“The Chinese government wants to make strategic investments offshore,” Ho said, “not to make money, but for strategic policy reasons, such as locking down long-term oil supplies”.

Although the focus of Baker’s practice in China is mostly on traditional energy, Ho said the firm also handles some climate change-related projects. “The practice will grow,” Ho said, “because the demand for cleaner energy is ramping up dramatically in response to escalating problems with pollution.”

But those might not be the type of deals that Manatt expects to nurture. The bulk of Baker & McKenzie’s China lawyers work with U.S. and other foreign companies investing in China, Ho said, and most of them “prefer to go it alone in China by establishing 100-percent-owned subsidiaries.”

Despite that trend, Ho doesn’t deny that Chinese/U.S. company partnerships make sense in some cases. Ho just closed a deal for Westport Innovations Inc., a Canadian alternative fuel technology company, that paid an initial \$4.5 million for a 35 percent share of a joint venture with Weichai Power Co., an engine manufacturer in China.

GOING FOR IT

Despite the skepticism, the 72-year-old Ma is bullish about Manatt’s prospects across the Pacific. Last month he spent several weeks visiting with high officials in China, a jaunt that resulted in about 25 leads, he said. Those leads have translated to about five potential alliances worth about half a billion dollars that the team is exploring, four of which involve renewable or alternative energy, he said.

Ferguson says that if in a year, alternative and renewable work from China represented 25 percent of his practice, he’d be happy. And he’s optimistic that it can be done.

“With Rongjie’s connections to Chinese officials and our connections to government officials here in the United States, we feel that we can offer something that none of the other firms can.”

Manatt lawyers admit their strategy carries no guarantees — they have yet to figure out how big the need for partnerships will be.

“We participated when the Japanese were involved in [similar partnerships] in the 1980s,” Bava said. “We intend to be active in what we expect to be Chinese investment and trade in the twenty-first century, and we’re trying to figure what the best way is.”

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