Mega Company

Transaction of the Year

Texas Competitive Electric Holdings Company LLC (“TCEH”)

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In 2007, when Texas Pacific Group, Goldman Sachs, and KKR came together to acquire what was then known as TXU, the complex $42 billion acquisition was the largest leveraged buyout of all time. The acquisition was driven by an expectation that pricing in the Texas wholesale energy business would continue to rise (and natural gas prices would not dramatically fall) as the Texas economy grew and prospered.

Once the transaction was completed and a new corporate holding company was created, Energy Future Holdings Corp. and 70 of its affiliates (collectively, "EFH") operated as the largest generator, distributor, and certified retail electricity provider in Texas. EFH had two separate silos: (a) a ring-fenced, regulated distributor of electricity (“Oncor”), which was owned by Energy Future Intermediate Holdings Company LLC ("EFIH"), and (b) a competitive business that generated and sold electricity (Texas Competitive Electric Holdings Company LLC and its subsidiaries (collectively, "TCEH")). Each of EFH Corp., EFIH, and TCEH had its own set of creditors and massive, alleged, intercompany claims against the other silos. In addition to this byzantine capital structure, a host of extraordinarily complex tax considerations materially affected the evaluation of possible restructuring avenues. After nearly two years of prepetition restructuring negotiations, EFH filed for Chapter 11 in April 2014 with $49 billion in liabilities and $36 billion in assets.

In December 2015, the Bankruptcy Court approved an unprecedented global settlement that resolved billions of dollars in potential litigation on account of alleged intercompany claims and intra-silo claims. The Court described the agreement as a "model of corporate governance" and described the trial as "the most impressive display of professionalism with regard to presentation of a trial on any issue [the Court] had ever seen." The Bankruptcy Court simultaneously approved a comprehensive plan of reorganization for EFH, subject to certain Texas regulatory conditions. This plan had a unique feature that bound the TCEH creditors to support an alternative restructuring in the event such regulatory conditions were not satisfied.

In early 2016, when it became clear that such regulatory conditions could not be satisfied on the contemplated timeline, EFH filed a new plan of reorganization that allowed TCEH to emerge on a faster timeline than EFIH. Because of the "alternative restructuring" terms, TCEH was able to confirm the alternative deal and emerge from Chapter 11 within five months. In October 2016, TCEH emerged as a standalone company operating as "Vistra Energy." In connection with emergence, TCEH obtained a private letter ruling from the IRS that addressed a number of novel issues and that ultimately allowed TCEH to consummate a tax-free spin-off from EFH while also generating a more than $5 billion increase in the tax basis of TCEH’s assets, a transaction that had never before been accomplished.