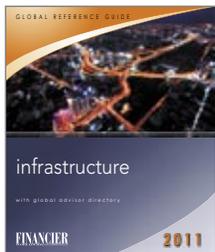


INFRASTRUCTURE 2011

MARKETING AND IMPLEMENTING EMERGING WASTE CONVERSION TECHNOLOGIES IN THE US



REPRINTED FROM:

GLOBAL REFERENCE GUIDE: INFRASTRUCTURE 2011

© 2011 Financier Worldwide Limited.
Permission to use this reprint has been granted by the publisher.

www.financierworldwide.com

NORTH AMERICA

Marketing and implementing emerging waste conversion technologies in the US

by [Teno A. West](#) | *Pannone Lopes Devereaux & West LLC*

IN RECENT YEARS, there has been a burgeoning demand throughout the world for clean, affordable alternatives to landfilling and other traditional forms of waste disposal. This need has spawned a growing private industry focused on the development of waste conversion technologies such as gasification, anaerobic digestion, pyrolysis, and bio-mechanical treatment. Although companies proficient in these technologies have found success in marketing their products and services to certain local governments – mostly throughout Europe and Japan – the marketing and implementation of these technologies in the US has presented unique challenges.

In the US, the laws governing the implementation of waste conversion technologies vary greatly from state to state and even from municipality to municipality. These laws – which range from state procurement laws to local land use laws – can be difficult to navigate and tend to be slow in catching up with emerging technologies. In addition, other factors such as local acceptance, waste aggregation problems, and environmental group opposition, can stop a project in its infancy if not properly accounted for and addressed. Without a practical, working knowledge of how to deal with the unique issues facing the particular community involved, companies promoting conversion technologies will find difficulty in marketing their products and services to even the most well-intentioned local governments. This article highlights several considerations that are often overlooked when marketing and implementing emerging waste conversion technologies in the US.

First, with the array of emerging conversion technologies available in today's market it is imperative to thoroughly understand the various technologies that may be suitable for the needs of the subject community. Certain types of projects and locations may be better suited for one technology based on various factors, including the composition of the available feedstock, regulatory requirements restricting certain types of conversion processes, and the associated implementation costs.

In Massachusetts, for example, there has been a moratorium on new waste combustion facilities for over 20 years. The moratorium may prohibit the use of both gasification and pyrolysis technologies because they too closely resemble combustion. However, other types of conversion

technologies, such as bio-mechanical treatment and anaerobic digestion may be more suitable for implementation under Massachusetts' conditions. A comprehensive understanding of the conversion technologies available, therefore, maximises the potential for success and ensures a company promotes their products to a viable market.

Second, the success of a waste conversion project is contingent on both the quality and quantity of the waste stream. Even the most advanced conversion technology will not succeed without a suitable and constant supply of feedstock. However, there are various challenges involved with developing a sufficient and appropriate feedstock for these emerging technologies.

A desirable and effective option for maximising feedstock is to partner directly with a local government that can guarantee a certain tonnage of waste. Such a partnership can benefit both parties – the company can secure the necessary waste to ensure profitability and the local government can contract for competitive rates and discounts. In addition, the use of waste aggregation techniques such as the implementation of what is commonly referred to as 'flow control' can produce a consistent supply of feedstock. Under flow control, a local government mandates that all locally generated solid waste and recycling must be directed to a designated disposal facility, resulting in a dependable and constant waste stream.

Third, there are many legal and technical nuances and challenges presented by the permitting and procurement processes regarding conversion technology projects. With the multitude of local governments in the US, the path to approval for any type of infrastructure project can be chaotic. Companies proposing conversion technologies must navigate the requirements of local, state, and federal law. Procurement requirements differ significantly from state to state, and local zoning laws may substantially differ between municipalities, even within the same state.

Finally, permitting and land use considerations are often shaped by local environmental concerns – well-founded or not – and community attitudes and influences that may be difficult to grasp for outsiders. Accordingly, it is important to cultivate local networks of supporters who understand the culture, political structure, and concerns of the public. Local support and an understanding of the permitting and procurement requirements are essential to success.

There are many overlooked factors that must be considered when marketing waste conversion technologies. A comprehensive effort to account for the few issues raised in this article will drastically increase the likelihood of successfully implementing emerging waste conversion technologies in the US. ■

Pannone Lopes Devereaux & West LLC

law firm

- Address:** 81 Main Street, Suite 510, White Plains, NY 10601, United States
- Other offices:** New York NY United States, Albany NY United States, Boca Raton FL United States, Miami FL United States, West Hartford CT United States, Providence RI United States, Boston MA United States
- Areas of specialisation:** Municipal Infrastructure; Environmental Law; Water Law; Construction Law; Solid Waste Management; Public-Private Partnerships; Public Contracts; Procurement Law; Public Financing; Administrative Law
- Firm biography:** Pannone Lopes Devereaux & West LLC is committed to providing cost-effective, responsive legal solutions for clients. Our Municipal Infrastructure team draws upon a depth of experience in environmental and water law, public financing and contracting, and solid waste management. Our attorneys are at the forefront of legal developments in the fields of emerging technologies, alternative project delivery, and public-private partnerships, and have extensive experience in advising and representing governments, public authorities, and federal agencies.
- Website:** www.pldw.com
- Key contact:** Teno A. West, Esquire, Partner, White Plains NY United States
+1 914 898 2497, twest@pldw.com
- Other contacts:** Gary R. Pannone, Managing Partner
Josh J. Meyer, Senior Counsel

**PANNONE
LOPES
DEVEREAUX &
WEST LLC**
counselors at law