

## Energy & Utilities

Staying ahead of developments in the energy industry is critical to energy consumers and providers alike. Our lawyers not only help clients manage their immediate regulatory, transactional, and litigation needs but also assist them in planning for and anticipating the future.

We represent clients that purchase all forms of energy and clients that re-sell and distribute that energy. We work with clients that generate electricity from fossil fuel and renewable energy generating facilities that they own or have contractual entitlement to the unit's output. And we help large commercial energy customers—manufacturers, universities, hospitals, and more—obtain access to affordable and reliable energy through a range of options, including developing on-site microgrids, investing in renewable generation projects, or assembling power supply portfolios.

As climate change and regulatory and economic factors converge to make legacy generation sources increasingly less viable, we help clients examine options—from closing and repowering sites with cleaner technologies to selling sites for redevelopment to divesting interests in older technology—and understand the related environmental and regulatory obligations of these options.

Our multidisciplinary team assists companies in the energy sector and their customers with the full spectrum of legal needs, including:

- Energy Finance & Development
- Energy Counseling & Litigation
- Corporate Business Transactions and Financings
- Environmental Counseling & Litigation
- Insurance Coverage
- Real Estate
- Real Property Tax Planning & Appeals

### Representative Matters

#### Electric cooperatives—Merger

Assisted electric cooperatives with a merger or consolidation of generation and transmission cooperatives.

#### Public Energy Authority of Kentucky—Prepaid natural gas supply agreements

Serve as Special Gas Counsel to the Public Energy Authority of Kentucky (PEAK) since its inception in 1998. Negotiate municipal bond-financed, prepaid long-term natural gas supply purchases. Between 2018 and 2019, PEAK issued more than \$2.2 billion in municipal bonds to prepay such purchase agreements. The client sells such gas to its members and more than two dozen municipalities at below market prices; their ratepayers will save millions in gas cost over the next 5-6 years

#### Navajo Tribal Utility Authority—Interstate natural gas pipeline acquisition

Negotiated the acquisition by the Navajo Tribal Utility Authority (NTUA) of approximately 268 miles of an interstate natural gas pipeline—and related compressor stations—to serve several Navajo Nation communities that would have lost service from the prior pipeline owner abandoning the line. On federal approval, the line will be transferred to NTUA with the prior owner providing funds for NTUA to integrate the line into its distribution system. We also

helped NTUA obtain federal authorization to acquire and operate the interstate pipeline facilities.

**Southwest cities, tribal authority—Interstate natural gas pipeline rate case**

Represented two Southwestern cities and a tribal authority in a Natural Gas Act interstate natural gas pipeline rate proceeding at the Federal Energy Regulatory Commission (FERC), winning a new discounted rate for the clients after litigation with their natural gas provider.

**American Public Gas Association (APGA)—Favorable ruling, efficiency standard withdrawal**

Obtained for the APGA a favorable ruling from the U.S. Department of Energy (DOE) interpreting the use of non-condensing technology on residential natural gas furnaces as a performance-related feature that cannot be eliminated by adopting an energy conservation standard under the Energy Policy and Conservation Act. The DOE correspondingly withdrew a proposed efficiency standard that would have required many residential consumers to replace non-condensing technology natural gas furnaces with costlier higher efficiency condensing technology gas furnaces or electric heat pumps.

**Rural electric cooperatives—Return on Equity complaint settlements**

Challenged the Return on Equity authorized for two separate electric utilities and negotiated favorable settlements on behalf of our electric cooperative client in several complaint proceedings, saving our client more than \$7 million.

**The Black Belt Energy Gas District—Natural gas prepayment transaction**

Served as lead transaction counsel, special gas counsel and commodity swap counsel for our client in a transaction that issued \$446,760,000 of the District's Gas Supply Revenue Bonds to purchase a 30-year supply of natural gas to be delivered to three Alabama gas districts—Clarke-Mobile Counties Gas District, The Marshall County Gas District, and The Southeast Alabama Gas District.

**Huntsville Utilities, City of Huntsville, Alabama—Natural gas purchase and sale agreements**

Negotiated new North American Energy Standards Board Base contracts for the purchase and sale of natural gas for an Alabama public utility with five major natural gas marketing companies, significantly expanding the utility's options for purchasing natural gas for the customers of its municipal natural gas system at the lowest possible price and on the most reliable possible basis.

**Public Natural Gas Distributor—Rate case win**

Obtained a favorable settlement for our public natural gas distributor client against an interstate pipeline that had requested a net triple-digit rate increase and numerous tariff changes that would have adversely affected service and imposed additional costs on affected customers, including our client. This was the first rate case filed by the pipeline in 17 years.

**Public natural gas distributor—Pipeline rate case**

Negotiated a settlement of a pipeline rate case for a public gas distributor that cut a proposed rate increase by 80 percent and resulted in revisions to the pipeline's rate structure that should provide long-term cost reductions.

**District of Columbia Office of the People's Counsel—Undergrounding initiative**

Assisted in the negotiation and development of the approximately \$1 billion public/private DC PLUG distribution facility undergrounding initiative, which included the use of securitized financing, subsequent legislative amendments, and the ongoing implementation of the program.

## Alerts

The Chevron Doctrine & FERC, Bloomberg Law, 4.5.2024

FERC Mandates Remote Proceedings, Environment & Energy Alert, 4.28.2020

Rural Utilities Service Begins FY19 Broadband Loan Program, Revises Loan Limits, Environment & Energy Alert, 11.16.2018

Coal Plant Shutdowns: The Implications of Recent Health Studies, Environment & Energy Alert, 5.11.2018

Coal Plant Shutdowns: March 21 Deadline Looms for Qualified Opportunity Zone Designation, Environment & Energy Alert, 2.14.2018

Volkswagen Settlement Offers Funding for Clean Transportation Upgrades, Environment & Energy Alert, 10.19.2017

DOE Requests FERC Fast-Track a Rule That Will Benefit Coal and Nuclear Plants, Environment & Energy Alert, 10.10.2017

Volkswagen Settlement Provides Funding Opportunities for Electric Utilities, Environment & Energy Alert, 9.22.2017

Coal Plant Shutdowns: Operators Should Implement Their Document Retention Policies And Protect Against Future Asbestos Claims, Environment & Energy Alert, 1.10.2017

Coal Plant Shutdowns: Plant Operators Should Engage Local Communities, Environment & Energy Alert, 10.20.2016

Coal Plant Shutdowns: Operators Have Cyber Protection Obligations Even After Closing, Environment & Energy Alert, August 29.2016

Can Solar Reboot Your Coal-Fired Plant Site?, Environment & Energy Alert, 4.25.2016

Can Insurance Help You Pay for Coal-Fired Power Plant Decommissioning?, Environment, Energy & Insurance Alert, 2.16.2016

New Pipeline Safety Rules: What You Need to Know, Energy & Utilities Alert, 3.12.2015

## Articles

Beyond Bitcoin—Will Blockchain and Smart Contracts Self-Execute Their Way Into the Utility Industry?, NRECA Legal Reporting Service, 12.31.2018

Tax Cuts: Sham or Rate Relief?, The Source, 11.1.2018

The March Toward Utility-Scale Energy Storage Keeps Going and Going and Going: States Are Forming Ranks, Corporate Counsel Business Journal, 4.27.2018

APGA Leads Charge to Lower Pipeline Rates to Match Lower Tax Rates, The Source, 4.13.2018

Whistling in the Dark: Shortcomings of Natural Gas Indices Persist, The Source, 10.19.2017

Electrify, Electrify, The Source, 5.1.2017

The Rising Cost of Natural Gas Transport, The Source, 7.18.2016

Coal Plant Shutdowns: Operators Need to Manage Community Relationships, Environment & Energy Alert, 5.28.2016

## Books

Transportation of Energy, Chapter 80, Energy Law and Transactions (LexisNexis Matthew Bender), 5.20.2020

Rates and Service Obligations of Municipally Owned Gas Distributors, Chapter 42, Energy Law and Transactions (LexisNexis Matthew Bender), 1.1.2019

## Speaking Engagements

The Future Direction of Policy, Regulation and Power Markets, Large Scale Solar USA Summit, 5.1.2024

Business Leaders Learn About Connecticut Offshore Wind Opportunities, 7.18.2019

Update on Legislative Proposals to Change Deference to Agency Interpretation of Ambiguous Statutes and Regulations, Law Seminars International, 7.18.2017

The Impact of the Election on Regulatory Policy, Southern Gas Association Spring Gas Conference, 3.14.2017

## Quoted

FERC-Approved Waiver Saves Consumers Storm Penalty Charges, Law360, August 24.2021

As Texans Went without Heat, Light or Water, Some Companies Scored a Big Payday, The Washington Post, 3.3.2021

FERC Redo of Grid Rate Reviews May Pull Plug on Disputes, Law360, 10.19.2018

City of Clarksville's Gas Sales to Guthrie Can Not Be Regulated by Federal Energy Regulatory Commission, Clarksville Online, 4.27.2018

FERC Can't Regulate Tenn. City's Gas Sales, DC Circ. Says, Law360, 4.24.2018

Energy Storage CEO Says Industry Is Finally Getting Noticed, ROI-NJ, 3.15.2018

FERC Urged to Prop up Illiquid Natural Gas Indexes, Risk.net, August 28.2017

State-of-the-Industry Report: Key Trends, Issues and a Conversation with NJDEP Commissioner Bob Martin, Commerce Magazine, 11.30.2016

\$225M Exxon Deal Offers Blueprint for Pollution Review, Law360, August 27.2015