

## Utilities

Harnessing the collaborative business model that defines us, our energy attorneys work closely with the firm's corporate and litigation attorneys to navigate complex utility transactions and spearhead insightful solutions to legal challenges, regulatory hurdles and disaster responses. Our experience encompasses every aspect of the utilities sector, ranging from the acquisition of new transmission facilities to complex distribution arrangements to financing of power and electric utilities projects.

### REGULATORY

Our deep understanding of public power and electric cooperative business models, combined with insights on restructured markets (RTOs) and traditional markets, translates into powerful advocacy before the Federal Energy Regulatory Commission (FERC), regulatory agencies and state commissions. We represent clients in the investor-owned and public power electric and natural gas utility industries on state and federal regulatory matters of all stripes. Our energy practice operates on the cutting edge of new risks and unprecedented opportunities in the wake of deregulation and restructuring, subsequent rulings by the FERC, and regulations stemming from federal agencies involved in environment, telecommunications, finance, homeland security and labor. We blend the knowledge of former FERC attorneys with 35 years of industry-leading experience to navigate the business and regulatory risks inherent in this dramatic shift within the energy industry, and maintain an active presence in state agencies that oversee utility rates, regulatory compliance and the siting, routing and permitting of energy facilities.

### LITIGATION

Our seasoned energy litigators are intimately familiar with regulatory snafus, run of the mill disputes and high-stakes litigation. We resolve problems including compliance matters, straight-forward disputes between two parties, and complex cases with multiple parties addressing issues worth hundreds of millions of dollars. We proactively apply our deep knowledge of the utilities sector to determine the best strategy to meet our clients' business goals. At FERC and before state and federal courts we have successfully represented electric generators and load-serving entities in disputes concerning transmission rights and capacity markets, litigated the rates and terms and conditions of service charged, and defended electric generators in station power disputes.

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## ENVIRONMENTAL

Deeply experienced with the environmental issues that often impact utilities projects, we advise on environmental permitting and siting, negotiate complex easement terms concerning environmental and hazardous waste issues, and help clients meet the increasingly stringent rules and standards of the Environmental Protection Agency (EPA) and other key environmental agencies. We handle all aspects of EPA and state agency rulemakings and state commission proceedings impacting utilities. Our environmental attorneys advise utilities clients on the Clean Air Act new source review, opacity and compliance actions and Clean Water Act compliance actions.

## REGULATORY EXPERIENCE

Our utilities clients include electric cooperatives, municipal utilities, investor-owned utilities, transmission owners and customers, independent power producers, coal-fired generators and power marketers.

We provide timely advice and counsel to clients on new and proposed federal regulations relating to utility operations and on:

- Regional transmission organization (RTO) participation.
- Transmission and interconnection matters.
- All other RTO issues.
- Rate cases, rate schedules and tariff filings.
- Interlocking directorate issues.
- Exempt wholesale generator (EWG) and market-based rate issues.
- Commercial and financial transactions and restructurings.

Our energy attorneys have deep electricity experience at FERC. They have:

- Actively participated in the proceedings of every major RTO in operation today (and have been the principal architects of a number of RTO proposals); and have continued to participate in the structuring, governance and operation of RTOs, including issues related to their operations.
- Negotiated the terms of an agreement that forged a relationship with the California ISO resulting in a profitable new reliability must run agreement.
- Filed requests for billing adjustments seeking additional compensation for various New England generators, resulting in the recovery of several tens of millions of dollars in the last three years.
- Filed Federal Power Act Section 205 rate cases.

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- Prepared and prosecuted before FERG dozens of applications for authority to sell, merge with, or acquire facilities from public utilities.
- Prepared and prosecuted applications for exempt wholesale generator (EWG) and qualifying facility (OF) status.
- Prepared and prosecuted federal tariff filings, ranging from traditional rate cases to performance-based rate making to unbundling and retail access.
- Provided advice on the structuring of energy companies under the Public Utility Holding Company Act of 2005 and prepared requests for exemptions.
- Successfully pursued a decision that codified the general prohibition on sales to any affiliate without first receiving FERC authorization under a separate rate schedule.
- Obtained authority to sell power at market-based rates.
- Successfully moved FERC to permit wholesale sales at market-based rates upon an application demonstrating the lack of market power (Order Nos. 652 and 697).
- Worked to have FERC require prior authorization for sale, disposition, merger, or consolidation by a public utility of facilities used for the wholesale sale of electricity or the transmission of electricity in interstate commerce.
- Designed and obtained FERC approval of a unique regulatory mechanism that reimbursed our client for its out-of-pocket costs of maintaining and repairing its generating facilities.
- Served as lead counsel for a major generator involving a standard offer contract with a New England utility and helped to negotiate and finalize a favorable settlement agreement that FERC ultimately approved.
- Addressed issues involving unit operation, communications and price reporting.
- Represented a municipal electric utility in a landmark stranded generation costs dispute regarding the formation of a new municipal, with FERC agreeing that the city, which would continue to purchase wholesale power from the regional utility, should not owe stranded costs.
- Assisted with hydroelectric dam safety review.
- Obtained dam relicense.

## LITIGATION EXPERIENCE

Stinson's attorneys handle every aspect of electric rate litigation, including electric rate design, cost allocation and revenue requirements. We have been deeply involved in litigation concerning:

- Generation interconnection.

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- Transmission access.
- Open access transmission tariff requirements under the myriad of federal orders governing such service.
- Retail wheeling.
- Market power mitigation and market-based rate approvals.
- Power marketing.
- Commercial disputes between owners of generation facilities and offtakers from generation and transmission facilities.
- Commercial disputes between owners of electric facilities and vendors or construction contractors.
- Major generator in the preparation, litigation and the successful settlement of a number of filings regarding cost-of-service rates.
- Cooperative utility in litigation regarding its corporate reorganization.
- Municipally-owned electric utility in multi-year litigation regarding the California market crisis.
- Electric generators and load-serving entities in disputes concerning transmission rights and capacity markets in several RTOs.
- Electric generators in station power disputes.
- Transmission owner in a dispute concerning the allocation of seams elimination cost adjustments following the elimination of through and out rates.
- Transmission owners in rate design and transmission cost allocation proceedings.
- Electric generator, with a result that required a transmission provider to make certain information publicly available on an electronic database.

## ENVIRONMENTAL EXPERIENCE

- Defend environmental law enforcement actions brought by EPA, DOJ and NGOs, reply to government information requests, and negotiate environmental operating and construction permits and agency orders.
- Strategic regulatory planning integrates present and anticipated future environmental regulatory requirements into utility compliance and business plans.
- Apply deep understanding of environmental regulations applicable to electric utilities to compliance questions associated with present operations and planned expansions and modifications.
- Defend Clean Air Act new source review, opacity and compliance actions and Clean Water Act compliance actions.
- Draft comments on EPA and state agency rulemakings impacting electric utilities, appeal rules and work with environmental agencies to achieve rule corrections and accommodations for specific electric

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generating units.

- Spill and disaster response experience includes working with the EPA, Chemical Safety Board, OSHA, state agencies and transportation agencies and securing pathways to quickly resume operations and efficiently resolve government investigations.

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## RELATED CAPABILITIES

Energy

Oil & Gas

Renewable Energy

Corporate Finance

Business Litigation

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## NEWS

Jonathan Schneider Highlights Need for Cost Control in Transmission Planning Ahead of FERC Final Grid Rule

03.14.2024

McCaffrey, Reiter Examine Right of First Refusal Rulings, Outlook for Transmission Companies in *Law360*

01.08.2024

*Best Lawyers*® Recognizes Stinson in "Best Law Firms" Report

11.02.2023

McCaffrey Rejoins Stinson in DC After Time with American Public Power Association

07.18.2023

Landmark Power Supply Partnership for CORE Electric Steered by Stinson Attorneys

01.30.2023

Stinson Attorneys Prevail in Eighth Circuit Drinking Water Utility Matter

10.27.2022

Stinson Attorneys Named to 2022 Washington, DC *Super Lawyers*

05.03.2022

Jonathan Schneider Talks to *The Washington Post* About FERC's Climate Policies

04.27.2022

Micah Revell and Kevin Savory Examine Renewable Energy Tax Credit Proposals in *Bloomberg Tax* Article

03.25.2022

Stinson Establishes Infrastructure Task Force to Support Clients

03.08.2022

Chugach Electric Acquisition Featured in *Global Legal Chronicle*

12.03.2020

## PUBLICATIONS

EPA Releases Suite of Environmental Regulations for Utility Sector: What does it mean for you?

04.25.2024

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