

Energy

The electric and natural gas industries face transformative opportunities as well as daunting challenges. Jenner & Block's Energy practice is known for the creative and collaborative thinking it brings to cutting-edge issues in which the law is still developing, and its experience handling a broad cross-section of matters impacting the industry. We litigate cases at trial and appeal for energy companies at every level of the federal and state court systems, including before the US Supreme Court. We handle cases at FERC and at state commissions, and represent clients in regulatory enforcement matters. We also represent and counsel clients engaged in energy transactions.

Our team includes a former FERC Commissioner, two former US Supreme Court clerks, two former general counsels of major electric utility companies, and experienced trial lawyers. We work closely with Jenner lawyers across the firm to support the full scope of legal needs for Energy industry clients, whether conducting an internal investigation, trying business litigation matters, briefing and arguing cases in the appellate courts and the Supreme Court, navigating tribal issues, or handling significant transactions.

Experienced Policy Advisors

We draw upon our diverse experience to provide unique insights and advocacy to help our clients plan for what is ahead and to tackle any issue in courts, legislatures, commissions, communities, and in commercial transactions. We appear directly before regulators and courts on behalf of clients and provide strategic legal and regulatory counsel concerning their core business strategies and most critical contested matters.

Established Energy Leaders

Jenner's Energy lawyers have a long history of successfully representing energy clients in a broad range of policymaking and regulatory proceedings, and in litigation arising from such proceedings. Our advocacy prioritizes our clients' commercial goals and is informed by our sophisticated technical understanding of how the industry operates. We pride ourselves on our ability to translate that understanding into a persuasive presentation tailored to a generalist court or an expert administrative agency. Our major clients include investor-owned utilities, public power entities, competitive power producers, marketers, and major energy users, in addition to regulators, cleantech companies, and many companies who are innovating in the new energy economy.

Strategic Partners at the Forefront of an Evolving Energy Landscape

As technology innovation and demand for new solutions outpace the law, we partner with our clients to anticipate the industry's evolution and provide creative answers that position them for success. We have extensive experience shaping the policy that drives business outcomes, including new and evolving regulatory models and commercial energy structures, such as alternative forms of regulation and ratemaking, non-traditional rate design approaches, and new market arrangements.

Providing Innovative Energy and Sustainability Solutions

Our adjacent Climate Practice develops innovative energy and sustainability solutions for utilities, universities, Native American tribes, emerging cleantech startups, and major corporations. Led by lawyers in the firm's corporate, tax, Native American, cybersecurity, investigation, and appellate practices, we help clients navigate issues involving renewable natural gas, hydrogen, carbon capture and sequestration, and carbon markets.

Experience

- Counseled clients and/or litigated a wide range of emerging energy policy issues including infrastructure cost allocation; transmission planning; the Inflation Reduction Act and its implications and financial opportunities; hydrogen and CO2 pipelines; natural gas transition and electrification; offshore wind; wholesale energy and capacity market rules; and a range of matters regarding the division between state and federal jurisdiction.
- Represented many power and gas industry participants, including some of the world's leading financial institutions, in complex FERC enforcement matters, including allegations of market manipulation by power or gas traders as well as a broad range of other compliance issues—particularly in the context of organized power markets.
- Represented clients before state energy commissions and state appellate courts throughout the country. Our attorneys have first-chaired 20 gas and electric general and revenue requirement rate proceedings, successfully obtained more than 30 certificates of public convenience and necessity to construct new electric system facilities, including transmission facilities and service territory expansions, and defended multi-billion-dollar mergers against challenges to their regulatory approvals.
- Provided strategic and practical legal advice for carbon capture and sequestration transactions, including working with clients' business and legal teams on the goals and economics of proposed deals. We have provided recommendations on the interrelated and value-driving provisions of agreements, including those related to economic allocation of Section 45Q tax credits and credits available pursuant to California's Low Carbon Fuel Standard. We have also counseled clients on financing and public disclosure considerations and provided advice and support to maximize 45Q value and manage tail risks associated with the credits and executing projects.

- Litigated complex commercial disputes, including contract and construction disputes, in court and before arbitration panels. Successful litigation of energy matters requires a familiarity with the industry and regulatory context, as well as superb generalist trial advocacy—and our experienced trial lawyers combine both.

Recent specific matters have included:

- Counseling related to a state-level strategy for producing, selling, and transporting green hydrogen, shaping policy via legislative proposals. As is common in state-based energy policy-making endeavors, the legal analysis requires a deep understanding of the jurisdictional and constitutional boundaries separating state and federal energy regulation, as well as a practical understanding of commercial objectives. Our attorneys are keenly aware that questions of government authority, although often overlooked, are foundational and must be handled properly to ensure projects stay on track through completion.
- Developed and implemented federal regulatory strategies for a leading energy trade association to expand the size and value of wholesale electricity markets for advanced energy products and services. We have successfully worked before FERC to open markets to energy efficiency, distributed storage, and distributed storage and energy resources.
- Led an innovative transmission project crossing tribal lands through a series of challenging business negotiations, innovative business structuring, and approvals by the California Public Utilities Commission, the FERC, and the California Independent System Operator to achieve a landmark joint venture that resulted in a significant victory for Indian Country, electric utilities, and their customers.
- Litigated cutting-edge jurisdictional issues affecting the future of the electric and gas industries, including successfully litigating a preemption case challenging a New Jersey statute subsidizing new natural gas-fired generators—and then successfully defending landmark programs in Illinois and New York supporting clean-energy generators against preemption challenges. We also serve as expert witnesses to explain federal and state regulatory policies.
- Helped clients navigate sensitive white-collar and regulatory investigations, as well as criminal proceedings and court-ordered probation proceedings, by bringing together our deep understanding of the industry and our clients' businesses with our best-in-class Investigations, Compliance, and Defense practice. We have represented industry leaders in regulatory investigations into their decision-making and performance and in connection with management, finance, and compliance audits.

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Transitions in Energy and Climate Solutions