SPIEGEL & MCDIARMID LLP

Electric



Representation of Public Sector Entities in the Electric Utility Industry

Spiegel & McDiarmid LLP enjoys a national reputation in the energy industry, which is based on the clients we represent, the positions we advance and the results we have been able to achieve. Our clients are largely public-sector entities, including states, city and consumer-owned utilities, cooperatives and ratepayer advocates. We fight to promote consumer interests against resource-rich opponents, and are known for our extensive knowledge of the issues and our creativity in forging innovative solutions, whether through participation in hearings, settlement talks, contract negotiations or legislative and policy arenas.

Litigating Complex Energy Matters

Our experience in addressing complex energy matters is on a par with any firm in the country. We practice mainly before the Federal Energy Regulatory Commission (FERC) and related federal appellate courts, but also appear regularly in proceedings before state utility commissions. Over the past five decades, we have participated in all phases of energy litigation — everything from initial interventions and complaints, to alternative dispute resolution proceedings, to evidentiary hearings, to district court, appellate court and Supreme Court advocacy. The firm has also been at the forefront of many of the rulemaking proceedings utilized by federal administrative agencies to set national energy policy. Now that utilities in many parts of the country are located within the footprints of Regional Transmission Organizations (RTOs), we have expanded our representation of firm clients to the RTO stakeholder processes where significant tariff and policy changes often begin and take shape. For a sampling of recent examples of the types of energy litigation in which we have been involved, visit our Litigation and Appeals page.

Advocacy on Policy Matters

Clients that value a role in shaping policy and the legislative process turn to us for policy advice and lobbying services. Our lawyers have helped to draft some of the key pieces of energy legislation enacted during the past several decades. Our vast experience gives us credibility with lawmakers and regulators in all matters relating to electric industry regulation.

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As consumer advocates operating in the context of an ever-changing mix of priorities and mandates (many of which we have helped to shape), we often confront complex issues that involve the intersection of law, policy, economics and engineering, and we often advance positions that stretch current boundaries. We are able to harness experience that is national in scope, spanning both regions that are subject to organized or restructured markets and those in which such markets are not in place. The types of issues with which we typically deal include infrastructure development, rate regulation, market design, mergers and acquisitions, investment incentives, cost allocation, nuclear and hydro licensing and related issues, and energy efficiency/renewable generation, as well as reliability and cyber security.

Energy Transactions

Firm attorneys have substantial experience advising utility clients contracting for energy, capacity, fuel, renewable attributes, construction and ownership of power plants, transmission interconnection and myriad other associated transactions. Negotiations have included individualized contracts as well as commonly used form contracts in the industry such as Edison Electric Institute, WSPP, North American Energy Standards Board and International Swaps and Derivatives Association agreements. The firm also advises on FERC and Commodity Futures Trading Commission compliance obligations associated with energy transactions. We also handle all types of contractual matters that touch on environmental law, including the treatment of demand response programs, where the issues may involve who can and must participate, who pays and how to program costs are to be allocated. Separately, our clients may find themselves obliged to negotiate specialized contracts that deal with renewable resources (such as wind, solar and geothermal energy), or that involve issues such as the ownership of environmental credits in state or regional cap-and-trade or renewable portfolio programs. Our Negotiating Agreements page provides more detail.

Environmental Protection Agency Rules Guidance

The Environmental Protection Agency (EPA) issues rules that can have far-reaching impacts on almost every aspect of energy production and delivery, with a profound impact on the costs borne by ultimate consumers. We assist clients in navigating the challenges posed by new regulations, including by providing comments on EPA?proposed rules that offer practical guidance on how an EPA proposal may affect energy supplies and customer rates.