SPIEGEL & MCDIARMID LLP



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Cynthia S. Bogorad

Partner

Cynthia Bogorad has won national acclaim as one of the leading attorneys shaping energy law and helping municipal and co-op electric systems achieve their objectives through the legislative and regulatory arenas, litigation and negotiations. Cindy's advocacy efforts range from fighting for individual clients to advancing the policy goals for national organizations like TAPS (the Transmission Access Policy Study Group, an association of transmission dependent utilities).

The Harvard Law grad has been named by *Public Utilities Fortnightly* as one of the industry's 35 "Groundbreaking Lawyers of 2009" and by *Legal Times* in 2005 as one of DC's top ten energy lawyers. Cindy has repeatedly been recognized as an AV Preeminent-Top Rated Lawyer® for Energy, Environmental and Natural Resources and was included in the *Martindale Hubbell Bar Register of Preeminent Women Lawyers* for 2011. Cindy was also selected as a "Super Lawyer" in Energy and Natural Resources for 2013–2026 by *Washington, DC Super Lawyers* magazine. Since 2013 she has been listed in Chambers USA where one commenter noted Cindy "is a first port of call for any FERC-related issues," adding that she "will not stop until she has the answer." Another stated she is a "fierce advocate for her clients; when she speaks, people listen." In addition, Cindy is listed in Chambers Global.

"I use my skills to help clients achieve their mission — delivering reliable electric service at affordable cost — and take to heart their issues and challenges," she says. "I relish being an integral part of my clients' team rather than just a 'hired gun' and work to open doors and creatively solve their problems."

Cindy's active involvement in the legislative process leading to the Energy Policy Acts of 1992 and 2005, and in all major electric rulemakings at the Federal Energy Regulatory Commission (FERC), gives her a breadth and depth of experience to help clients benefit from and adapt to the fast-changing regulatory landscape. For example, her direct involvement in

EDUCATION

Harvard Law School, JD, *magna cum laude,* 1977, Cambridge, MA

University of Pennsylvania,
BA, *summa cum laude,* 1974,
Philadelphia, PA
Psychology
Phi Beta Kappa

ADMISSIONS

District of Columbia

Massachusetts

United States Supreme Court

United States Courts of Appeals for the District of Columbia, Second, Third, Fourth, Fifth, Sixth, Seventh and Ninth Circuits

United States District Court for the District of Columbia

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MEMBERSHIPS

American Bar Association

Energy Bar Association



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developing Energy Policy Act of 2005's reliability title and FERC's implementing rulemakings enables Cindy to successfully counsel clients on North American Electric Reliability Corp. (NERC) compliance.

"It's gratifying to put to client advantage provisions that became part of the Federal Power Act or FERC's Open Access Transmission Tariff as a result of my advocacy in the legislative and rulemaking process," says Cindy.

Representative Matters

- Cindy successfully represented the Florida Municipal Power Agency (FMPA) in its complaint against Duke Energy Florida (DEF) regarding transmission service from the Poinsett Solar Facility. FMPA charged, and FERC agreed, that DEF had wrongfully rejected transmission service requests and associated queue positions in violation of its tariff. *Fla. Mun. Power Agency v. Duke Energy Fla.*, 167 FERC ¶ 61,138 (2019).

- Cindy represented TAPS in the extensive legislative proceedings that led to the passage of the Energy Policy Act of 1992. She continued this representation in the lead-up to the enactment of the Energy Policy Act of 2005, particularly on the issues of native load service obligations, long-term rights and reliability. On TAPS's behalf, Cindy has been involved in every major electric and reliability rulemaking proceeding. She currently serves on NERC's Risk-Based Registration Advisory Group and Reliability Assurance Initiative Advisory Group.

- Representing TAPS, Cindy secured many transmission customer protections in FERC's landmark transmission open access rule, Order No. 888. She continued to represent TAPS on appeal at the D.C. Circuit, both as a lead appellant and an intervenor generally aligned with FERC on open access requirements, and filed an amicus brief at the Supreme Court on jurisdictional issues. The rule was upheld in almost all respects. *Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

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centralized energy markets. We achieved myriad consumer-protective improvements to the Midwest ISO market design. The firm has continued to represent that "Midwest TDUs" coalition in many proceedings pertaining to the Midwest ISO tariff, for example with regard to the Midwest's "Resource Adequacy Requirement" provisions. Cindy also represents a number of public systems in proceedings related to the Southwest Power Pool, Inc. tariff.

- Cindy and others in the firm represented a coalition of Iowa, Minnesota and Wisconsin consumer-owned utilities with respect to the sale of Interstate Power & Light's transmission system to ITC Midwest. The case proceeded through trials before both the Iowa and Minnesota state commissions, and was ultimately resolved through a combination of settlements and a ruling by FERC. *ITC Holdings Corp.*, 121 FERC ¶ 61,229 (2007). The firm participated directly in the settlement negotiations. The outcome imposed several conditions on the sale, including a substantial reduction in ITC Midwest rates.

- Cindy has worked with a number of municipal and cooperative systems to self-report possible violations of reliability standards, helping those clients navigate through their exposure to significant penalties. She has also represented such systems in FERC enforcement efforts.

Practice Focus

Electric, reliability, compliance and enforcement, litigation and appeals, negotiating agreements and public policy and lobbying.

Resources

- *Managing Cyber Supply Chain Risk-Best Practices for Small Entities*, by Cynthia S. Bogorad – American Public Power Association and the National Rural Electric Cooperative Association (April 2018).

- *Primary Frequency Response: Challenges of a Changing Resource Mix*, by Cynthia S. Bogorad – American Public Power Association Legal & Regulatory Conference (September 2016).

- *Risk-Based Registration for NERC Compliance Obligations*, by Cynthia

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S. Bogorad – American Public Power Association Legal Seminar (October 2014).

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