SPIEGEL & MCDIARMID LLP



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EDUCATION

Harvard Law School, JD, *cum laude*, 1994
Cambridge, MA

University of Virginia, BA with distinction, 1991
Charlottesville, VA

ADMISSIONS

Virginia

District of Columbia

Massachusetts

United States Supreme Court

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

United States Court of Federal Claims

Jeffrey A. Schwarz

Partner

Jeff Schwarz concentrates his energy-practice work on litigation to improve the functioning of wholesale electricity markets and the regulation of public utilities. His goal is to ensure that consumers receive the best public utility service at the lowest reasonable cost. To this end, he represents municipal and cooperative electric utilities, state public utility commissions, consumer advocates, attorneys general, and other public interest-oriented organizations in litigation before the Federal Energy Regulatory Commission (FERC) and Federal courts. He has co-authored six Supreme Court party and *amicus* briefs on utility-regulation issues, has been recognized as an AV Preeminent-Top Rated Lawyer® in Energy Regulation by ALM Media and as a "Super Lawyer" for 2018–2025.

Jeff regularly counsels public-power clients regarding FERC compliance issues, helps them self-report potential violations and has attained favorable resolutions of various FERC enforcement matters.

Representative Matters

U.S. Supreme Court

- Represented the Maryland Public Service Commission in an appeal of court decisions striking down on preemption grounds a commission order aimed at ensuring service reliability and supporting development of new generation facilities. *PPL EnergyPlus, LLC v. Nazarian*, 753 F.3d 467 (4th Cir. 2014), *aff'd sub nom. Hughes v. Talen Energy Mktg. LLC*, 136 S. Ct. 1288 (2016).
- Defended the Chair and Commissioners of the New York State Public Service Commission against a challenge to the zero-emission credit component of New York's "Clean Energy Standard." As New York urged, the district court dismissed the complaint, the Second Circuit affirmed that decision, and the Supreme Court declined to review. *Coalition for Competitive Electricity v. Zibelman*, 272 F. Supp. 3d

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MEMBERSHIPS

American Bar Association

Energy Bar Association



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554 (S.D.N.Y. 2017), *aff'd*, 906 F.3d 41 (2d Cir. 2018), *cert. denied sub nom. Elec. Power Supply Ass'n v. Rhodes*, 139 S. Ct. 1547 (2019).

- Drafted briefs for *amici curiae* American Public Power Association and National Rural Electric Cooperative Association regarding the "*Mobile Sierra* doctrine" and the standards under which FERC reviews tariff rates and contract rates challenged by non-contracting parties. *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165 (2010).

- Drafted briefs for *amici curiae* American Public Power Association and National Rural Electric Cooperative Association regarding challenges to contract rates negotiated during the 2000–01 Western electricity market meltdown. *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1*, 554 U.S. 527 (2008).

Other Federal Courts and Federal Agencies

- Briefed and argued successful appeal challenging FERC's denial of a complaint concerning PJM capacity auction prices. *Maryland Office of People's Counsel v. FERC*, No. 24-1353 (D.C. Cir. Jan. 13, 2026).

- Briefed and argued appeal successfully challenging FERC decision to authorize pipeline expansion project. *N.J. Conserv. Found. v. FERC*, 111 F.4th 42 (D.C. Cir. 2024).

- Briefed and argued appeal challenging FERC acceptance of New York Independent System Operator capacity market rules imposing excessive charges on consumers. *N.Y. State Pub. Serv. Comm'n v. FERC*, 104 F.4th 886 (D.C. Cir. 2024).

- Briefed and argued appeal successfully challenging the U.S. Bureau of Reclamation's interpretation of the Central Valley Project Improvement Act as allowing it to impose disproportionate environmental remediation costs on CVP power contractors. *N. Cal. Power Agency v. United States*, 942 F.3d 1091 (Fed. Cir. 2019). Briefed and argued summary judgment on remand yielding $81 million damage award. *N. Cal. Power Agency v. United States*, 161 Fed. Cl. 498 (2022).

- Briefed and argued appeal by consumer-owned New England utilities challenging FERC decisions limiting their ability to fulfill their capacity

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requirements with self-supplied resources. *New England Power Generators Association v. FERC*, 757 F.3d 283 (D.C. Cir. 2014), on appeal from *ISO New England Inc.*, 135 FERC ¶ 61,029 (2011), *reh'g denied in part and granted in part*, 138 FERC ¶ 61,027 (2012).

- Briefed, opposed transfer, and assisted in preparation for argument in appeal challenging FERC decisions that interfere with state efforts to plan and support development of new generation needed for reliability and to get credit for those resources in PJM's capacity market. *New Jersey Board of Public Utilities v. FERC*, 744 F.3d 74 (3d Cir. 2014), on appeal from *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022, *reh'g denied*, 137 FERC ¶ 61,145 (2011).

- Drafted comments filed by more than 40 state utility commissions, attorneys general, consumers advocates, consumer-owned utilities and national and regional environmental, consumer and energy-policy NGOs seeking changes to FERC's transmission incentive-rate policy. *Promoting Transmission Investment Through Pricing Reform*, Order No. 679, 71 Fed. Reg. 43,294 (July 31, 2006), FERC Stats. & Regs. ¶ 31,222 (2006), *on reh'g*, Order No. 679-A, 72 Fed. Reg. 1152 (Jan. 10, 2007), FERC Stats. & Regs. ¶ 31,236 (2006), *clarified*, 119 FERC ¶ 61,062 (2007).

State Agencies

- Represented the D.C. Office of People's Counsel and cross-examined expert utility witness regarding the methods used to calculate the depreciation component of gas distribution rates. *In re Investigation into the Reasonableness of Washington Gas Light Co.'s Existing Rates & Charges for Gas Service*, Formal Case No. 1093, Order No. 17,132, 305 P.U.R.4th 1 (D.C. Pub. Serv. Comm'n 2013), *reconsideration denied in relevant part*, Order No. 17,204 (D.C. Pub. Serv. Comm'n July 31, 2013).

- Represented the D.C. Office of People's Counsel opposing the Potomac Electric Power Company's requested increase in distribution service rates. *In re Potomac Electric Power Co. for Authority to Increase Existing Retail Rates & Charges for Electric Distribution Service*, Formal Case No. 1087, Order No. 16,930, 300 P.U.R.4th 166 (D.C. Pub. Serv. Comm'n 2012).

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Practice Focus

Electric, transportation, compliance and enforcement, contracts and rate negotiations and litigation and appeals.

Resources

- *Opinion: FERC's Capacity Markets Limit Clean Energy and Cost Billions; It's Time for Congress to Act*, by Scott H. Strauss, Peter J. Hopkins, Jeffrey A. Schwarz – Utility Dive (August 2020).

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charges on consumers. *N.Y. State Pub. Serv. Comm'n v. FERC*, 104 F.4th 886 (D.C. Cir. 2024).

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