SPIEGEL & MCDIARMID LLP



Robert A. Jablon

Senior Counsel

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202.879.4070

Since joining Spiegel & McDiarmid in 1972, Robert Jablon has worked to protect the rights of cities, cooperatives and state governments that are dependent upon multibillion-dollar utilities and other dominant energy companies.

"These smaller entities need fair access to generation, transmission, fuels, technology and information," says Bob. "I have tried to help them gain economic access to essential resources where they have limited bargaining power. I have tried to protect public values and consumers."

He has been lead counsel on major cases and negotiations, including those dealing with the application of antitrust principles to the energy industry, obtaining economic and fair transmission access and pricing, mergers, market power issues, power plant participation and contracting, coordination and pooling, power supply and fuel terms, rates, nuclear cost overruns and major natural gas litigation. Bob has been recognized as an AV Preeminent-Top Rated Lawyer® for Energy, Environmental and Natural Resources by ALM Media.

"Law is — or can be — our public morality," Bob says. "I try to use legal principles to protect the rights of those who need help, to solve client problems in regulated and network industries, and to further consumer interests."

EDUCATION

Harvard Law School, LLB, 1964
Cambridge, MA

Lehigh University, BS, with honors, 1961
Bethlehem, PA
Economics

ADMISSIONS

New York State

District of Columbia

United States Supreme Court

United States Courts of Appeals for the District of Columbia, First, Fourth, Fifth, Sixth, Ninth and Federal Circuits

United States District Court for the District of Columbia

United States Court of Federal Claims

Representative Matters

- In a pivotal early case, *Consumers Power Co.* (Midland Plant, Unit Nos. 1 & 2), NRC Docket Nos. 50-329-A, *et al.,* 6 N.R.C. 892 (1977), under the Nuclear Regulatory Commission's antitrust jurisdiction, he helped open access by smaller municipals and cooperatives to transmission — the roads of electricity — at a time when many systems could not buy transmission services at all. He also helped achieve rights

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MEMBERSHIPS

Associate Member of the Year, Florida Municipal Electric Association, 1998, 1999

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of joint generation plant participation, and of comparable back up and coordination arrangements to those that possess and exercise dominant utilities.

- Since then, in numerous antitrust, power supply, nuclear participation, merger, electric restructuring and rate cases, he has teamed up to achieve smaller systems' ability to own and buy transmission on fair terms and participate in joint ownership and power supply arrangements. *E.g., Florida Municipal Power Agency v. Florida Power & Light Co.*, 64 F.3d 614 (11th Cir. 1995), *enforced*, 81 F. Supp. 2d 1313 (M.D. Fla. 1999).

- Bob was designated by the United States Court of Appeals for the District of Columbia Circuit as a lead counsel and by transmission-dependent petitioners on behalf of municipal and cooperative transmission-dependent entities, including the American Public Power Association and the National Rural Electric Cooperative Association, to advise the Court of Appeals in *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). This was the appeal of the Federal Energy Regulatory Commission's major electricity restructuring Order No. 888 cases.

- At the New York State Public Service Commission, he supervised virtually all staff litigation before the Commission, participating in major agency, state and federal cases, which included electric, natural gas, telephone, water and transportation.

- At the Federal Power Commission, Bob worked on appellate litigation and major natural gas area rate cases. These cases, which established ceiling prices for natural gas production over broad areas of the United States, include:

  - *Area Rate Proceeding* (Hugoton-Anadako Area), Docket No. AR64-1, et al.

  - *Area Rate Proceeding* (Texas Gulf Coast Area), Docket No. AR64-2, et al.

  - *Pipeline Production Area Rate Proceeding*, Docket No. RP66-24

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- *Area Rate Proceeding* (Offshore Southern Louisiana Federal Domain and Disputed Areas), Docket No. AR69-1, et al.

- More recently, Bob has represented the Central Minnesota Municipal Power Agency ("CMMPA") and the Midwest Municipal Transmission Group ("MMTG") in securing the ability to invest in the Upper Midwest electric transmission grid on comparable terms with privately-owned electric utilities and achieving fair rates and terms for their transmission use. CMMPA and MMTG have municipally-owned electric utility members throughout the Upper Midwest. Bob's representation has involved numerous litigated cases and negotiations against privately owned electric utilities over many years. *E.g., Central Minnesota Municipal Power Agency*, 134 FERC ¶ 61,115 (2011) (establishing that CMMPA and MMTG can receive comparable returns to investor-owned utilities for transmission that they own); *Midwest Independent Transmission System Operator, Inc.*, 128 FERC ¶ 61,047 (2009) (establishing that municipally owned utilities can receive credit for their transmission ownership, including equity returns).

- In one typical case, Bob helped an Iowa municipal utility that pays transmission grid rates receive acceptance of its transmission facilities into the grid and therefore grid compensation. After favorable principles were established the case was settled. *City of Pella v. Midwest Independent Transmission System Operator, Inc.*, 134 FERC ¶ 61,081 (2011), *settlement approved*, 140 FERC ¶ 61,029 (2012).

Practice Focus

He's litigated cases in:

- antitrust and market structure and access conditions for utility products and services
- natural gas preferences and allocations
- electric restructuring
- mergers
- transmission ownership rights, access, pricing and classifications

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- regional transmission organization entitlements
- nuclear antitrust, cost overrun, contract and licensing
- rates, terms, and conditions for power supply, transmission and natural gas
- contracts
- construction cost overruns and failures
- retail service and service area and pricing (i.e., special rates)
- Qualifying Facilities issues
- congestion transmission pricing (financial transmission rights and auction revenue rights allowances)
- transportation, communications and water cases

Resources

- *Trinko and Credit Suisse Revisited*, by Robert A. Jablon – Energy Law Journal (December 2013).
- *Municipal Investments in Transmission – Recent Successes*, by Robert A. Jablon – Minnesota Municipal Utilities Association Annual Conference (August 2012).

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