Steptoe's electric power lawyers are trusted by major electric utility companies and the owners and financiers of non-utility generators and transmitters of electricity with regard to the full range of energy counsel.

Our lawyers negotiate and seek approval of contracts for wholesale power and transmission ventures, prepare documentation for developing financial joint generation and transmission ventures, represent utilities before FERC, and litigate disputes before federal and state trial and appellate courts and the US Supreme Court. We also provide corporate, commercial, and regulatory counsel to developers and investors in electric power projects and represent foreign governments and other parties in privatization initiatives.

**Noteworthy**

Transmission: Rates, Open Access, Interconnections

Steptoe has represented electric utilities in virtually every aspect of rate litigation before FERC. We have extensive experience in traditional embedded cost of service ratemaking and related accounting issues for both transmission and ancillary services. Our understanding and familiarity with FERC policies and ratemaking principles allows us to work closely with our clients’ management and rate experts in developing a rate case strategy and in putting together the company’s presentation for the case. We are recognized in both Chambers USA and The Legal 500 US for being on the cutting edge of numerous transmission and wholesale distribution pricing issues. For example, we have represented clients in the very proceedings before FERC which caused that regulatory body to adopt its current policies on such matters as pricing for merchant transmission. We have participated in state regulatory proceedings involving retail transmission rates.

As to non-rate transmission issues, Steptoe has expertise in open access tariffs, generator and transmission interconnections, Order Nos. 888, 890, and 1000, transmission planning disputes, wholesale distribution service and tariffs, and tariff compliance among other areas.

Markets: Contracts, Rules, Design, and Compliance

From the outset of competitive electric power markets, Steptoe has assisted clients in the formation and negotiation of virtually every kind of wholesale power and energy transaction (physical and financial), representing buyers, sellers, and marketers. We have drafted tariffs, standard form contracts, and transaction-specific agreements at all levels of complexity for these various transactions. In addition, we have experience in electric markets in different areas of the US, and are therefore familiar with the contracting practices that may be unique to these regions.

We represent clients that are members of all the existing ISOs/RTOs in the United States. Our lawyers have played instrumental roles in the formation of various ISOs/RTOs, drafting many of their foundational documents. Over the last several years, we have represented clients in numerous types of disputes regarding ISO/RTO policies and membership, and these disputes have addressed issues such as cost allocation of transmission, the proper application of ISO/RTO market rules including rules proscribing market manipulation, the level of grid management and other charges and identification of what facilities should comprise the ISO/RTO transmission system. We have also represented clients on matters involving the intersection of state and federal authority over these institutions and their markets, including issues of preemption under the Supremacy Clause.

In addition, we represent several major utilities that do not operate within ISOs or RTOs, which present different sorts of market issues. For these clients, we have assisted them in developing cost-based rates for short-term power sales in mitigated markets, with revisions to the wholesale requirements rates, and with developing policies to ensure that utilities abide by requirements limiting market-based rate sales.

Steptoe represents electric utilities in all aspects of FERC compliance. Subject areas include: EQR, eTariff, Interlocking directorates, change in status filings, affiliate rules, Standards of Conduct, OATT compliance, OASIS compliance, and FERC filing requirements. Assist in shaping regulation through rulemakings is also a specialty.

Investigations and Enforcement

When clients are faced with enforcement inquiries from FERC, they turn to Steptoe to provide unique insight and counsel, and efficient resolution. With the preeminent FERC-regulatory practice in the country, and led by former senior officials, our energy enforcement and investigations practice advises clients on potential violations of anti-market manipulation statutes and rules, RTO/ISO and pipeline tariffs, and rules in connection with the trading and marketing of physical and financial energy products. Our clients include all market participants, such as traditional utilities, energy companies, commodity traders, hedge funds and financial institutions, and their executives, traders, and compliance staff. We also assist clients with internal investigations and compliance audits, and provide extensive counseling related to maintaining compliant and up-to-date internal trading and regulatory compliance programs, compliance with CFTC, CME, ICE, SRO, and NFA registration and disclosure requirements, and compliance with FERC tariff requirements.
Transmission and Power Project Development

Steptoe knows the rules, the markets and the players—the project developer, the purchasing electric utility, and the lenders providing the necessary financing. Our lawyers have the legal and practical experience to handle all aspects of developing and implementing an electric power project. Our experience, which includes representing both project developers and purchasing electric utilities, enables us to quickly fashion effective and innovative solutions to the issues that inevitably arise in putting a project together.

We draft and negotiate power purchase agreements, financing agreements, and the other contractual arrangements necessary to implement projects. We provide advice concerning implementation of executed power purchase agreements and, where appropriate, termination of such agreements. We counsel clients with respect to applicable state and federal statutory and regulatory requirements. We represent clients in applying for necessary regulatory authorizations and defend clients from challenges to their activities in regulatory proceedings. We draft and negotiate agreements to organize partnerships or other ownership structures entered into by multiple parties to jointly develop a project. We also provide advice to electric utilities on the selection from competing proposals of projects with which to enter into negotiations.

Complex Litigation

Steptoe’s electric practice includes a substantial and highly successful litigation component. As our results prove, winning electric power litigation requires lawyers who possess a deep understanding of the industry. We regularly handle important matters relating to antitrust; power plant operations and outages; power supply, coal, and other contracts; fraud; Constitutional and Indian law, and other commercial litigation. We appear in trial and appellate courts across the country.

Competition and Antitrust

Steptoe’s electric practice encompasses antitrust litigation, mergers and acquisitions and related antitrust clearances and regulatory approvals, government and internal investigations, compliance counseling, and handling competition issues before regulatory agencies. We have handled some of the most complex and challenging antitrust and competition matters in the power industry for a number of the largest electric utility systems in the country. We are defending Eversource in class action antitrust litigation in Massachusetts alleging market manipulation and seeking $3.66 billion in damages. Our work for Southern California Edison Company on the market power issues in California has resulted in refunds of over $5 billion. We regularly represent clients in regulatory restructuring matters. We have obtained FERC and Department of Justice Antitrust Division approval of some of the most challenging transactions in the industry, and we have had a comparable record of success in other major litigated and regulatory matters for many years.

Mergers and Other Reorganizations

From the very first wave of utility industry consolidation that began nearly 40 years ago through the present, Steptoe professionals have handled utility mergers and acquisitions of a wide variety of sizes and types. We have negotiated the conditions that ensure FERC approval of mergers and are steeped in knowledge relating to market power issues. Steptoe also performs due diligence in connection with contemplated mergers and acquisitions. The firm routinely counsels clients on when and what type of Federal Power Act Section 203 filings are required and assists in all aspects of their preparation as well as the drafting of ancillary documents.
PURPA and Distributed Energy Resources/Storage

Steptoe represents clients in connection with the need to abide by the requirements set forth in the Public Utilities Regulatory Policies Act of 1978 (PURPA) and seeking relief from those requirements. We have successfully represented clients at FERC and state public utility commissions in situations where states attempt to overstep PURPA or their jurisdictional boundaries in implementing feed-in tariffs or other renewable programs. We have represented clients in PURPA Enforcement Petition FERC and district court proceedings where qualifying facilities have claimed on a variety of grounds that states are not properly enforcing PURPA. We also advise on competition and jurisdictional issues surrounding emerging markets for distributed resources and storage.

State Regulation

Our state regulatory team assists with a broad range of regulatory issues, including those that have an overlap with FERC issues. We routinely advise clients on return on equity matters, net energy metering and integration of distributed energy resources, grid modernization and smart meter deployment, energy efficiency and renewable portfolio standards, antitrust law, energy on tribal lands, the development of generator interconnection rules and policies, and station power issues. Beginning with the development and introduction of new concepts and legislation, our team works with clients to analyze and shape emerging policy and regulations. Members of our team served as legislative counsel regarding the passage of Illinois' historic and transformative 2011 Energy Infrastructure Modernization Act (EIMA) and 2016 Future Energy Jobs Act (FEJA). Building on EIMA's authorization of over $3 billion in utility grid modernization and smart meter investment coupled with performance-based formula ratemaking, FEJA pivots the state to a clean energy economy by overhauling and enlarging existing energy efficiency and renewable portfolio standards, creating a zero emission standard to preserve economically distressed zero carbon generation, and expanding net metering, community solar, and distributed generation deployment. Following passage, our work continues as we represent clients in the litigated proceedings designed to implement the new or expanded requirements.
News & Publications

CLIENT ALERTS
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November 11, 2020
By: Anthony G. Hopp, Steven J. Ross, Daniel A. Mullen

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October 28, 2020
By: Monique Watson, Daniel A. Mullen, Marc L. Spitzer, Richard L. Roberts, Jennifer L. Key, Donna Byrne, Charles R. Mills, Wesley J. Heath, Laura Swett, Cynthia L. Taub

MEDIA MENTIONS
S&P Global Quotes Marc Spitzer on FERC Policy Changes in New Administration
October 28, 2020

PUBLICATIONS
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Law360
October 1, 2020
By: Jennifer L. Key

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By: Stacie R. Hartman, Matthew B. Kulkin, Charles R. Mills, Daniel A. Mullen, Karen Bruni
Trump Administration Pursues Restrictions to Secure US Electricity Grid

May 11, 2020

By: Brian Egan, Jeffrey G. Weiss, Daniel A. Mullen, Wendy Wysong, Ali Burney, Ying Huang, Nicholas Turner, Zachary Simmons, Jacob Nelson (International Trade Assistant)

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