

ENERGY AND UTILITIES

Our lawyers represent some of the largest energy and utility companies in the country, from major public utilities and privately owned mining companies to alternative energy organizations. Our client base also includes municipalities and telecommunications companies, as well as solar, wind, energy storage and natural gas companies, and associated product and equipment manufacturers serving these industries globally.

Over the past decade, changing regulations and technological advances have created significant opportunities, but also legal hurdles for our clients. As such, our lawyers help clients protect their technological advances and anticipate future challenges given the regulatory environment and proposed state and federal legislation. We have represented our clients before the Federal Energy Regulatory Commission (FERC), the Federal Communications Commission (FCC) and the U.S. Patent and Trademark Office (USPTO), as well as state public utility commissions, tax commissions and environmental regulators, and other state and local regulatory bodies, including local zoning authorities.

Our energy and utilities lawyers support our clients in multiple jurisdictions around the world and drive efficiencies throughout the process. Our clients also benefit from the extensive resources provided by lawyers across other practice areas, from intellectual property to real estate.

In addition, our lawyers are experienced in the type of complex transactions and risk management vital to the climate change industry. We help clients access environmental risk transfer solutions and integrate those solutions into their broader business goals. This innovative approach to managing risk has been particularly helpful in repositioning and reusing coal fired power plants.

Our energy and utilities lawyers work across practice areas, including:

- Business strategy and general corporate services
- Drafting, negotiating and implementing contracts and agreements
- Real estate sales and acquisitions
- Land use
- Eminent domain
- Property Tax Assessment
- Governance and compliance
- Intellectual property
- Finance
- Litigation, including fire and electrical liability
- Employment and labor
- Environmental impact and remediation
- Insurance coverage litigation
- Development incentives and bond work

EXPERIENCE

Oil and Gas Offering

Represented a Colorado general partner in launching a successor fund targeting oil and gas interests in the United States.

Acquisition of Company Serving Oil and Gas Industry

\$10 million acquisition of company primarily engaged in the design, fabrication, installation, calibration and supply of production equipment and services in the oil and gas industry.

\$7.5 Million Acquisition of Oil and Gas Equipment Manufacturer

Represented the buyer, an engineering consulting firm and leading provider of prefabricated and preassembled systems, in its \$7.5 million acquisition of a company primarily engaged in the design, fabrication, installation, calibration and supply of production equipment and services in the oil and gas industry. The acquisition enabled the client to expand its service offerings and bring certain services in-house.

Removed Utility Client as Creditor in Bankruptcy Proceeding

Prevailed in U.S. Bankruptcy Court for the Western District of Missouri for a client energy utility when a hospital Chapter 11 filing listed the client as a creditor to compel the utility to continue providing gas and electric service. Following an emergency evidentiary hearing, the court agreed the hospital was never a direct customer of the client and thus the Bankruptcy Code provisions did not apply, allowing the client to disconnect service.

Acquisition of Transmission Line Easements for Energy Client

Assisted client in securing electrical power transmission line easements by negotiation and condemnation. Despite having an original list of 80 parcels of land, the team settled the majority on a compressed timeline and went to hearing on just four parcels, all of which were ultimately resolved in our client's favor.

Dismissal for Public Utility Owner, with Sanctions Against Plaintiff

Represented a public utility owner in a federal court case involving a complex commercial transaction, securing a dismissal with prejudice against a plaintiff resulting from our motion for terminating sanctions over the plaintiff's various discovery violations.

Corporate, M&A Counsel to Energy Company

Corporate and M&A counsel to a Colorado-based energy exploration and production company in connection with upstream and midstream activities, as well as strategic corporate matters, including a \$200 million private equity investment, acquisition and divestiture of oil and gas assets with an aggregate value in excess of \$300 million, and the development of gas gathering and processing facilities in the Williston Basin, North Dakota.

Subpoena Duces Tecum for Commodity Trading and Logistics Company

Represented an energy industry client in negotiating a limited response to an overly broad and unduly burdensome subpoena *duces tecum*.

Beat Force Majeure Claims and Secured \$3 Million in Damages in Pandemic-Driven Dispute

Represented WideOpenWest, a cable TV, internet and phone provider, before a panel of arbitrators on dueling breach of contract claims after WideOpenWest terminated its agreement with ad partner Viamedia in the midst of the COVID-19 pandemic. In the arbitration, Viamedia contended that the pandemic, as a *force majeure* event, excused its failure to pay WideOpenWest. The panel found Viamedia liable for breach of contract and awarded WideOpenWest nearly \$3 million in damages, plus attorneys' fees and costs.

\$50 Million Settlement for Multinational Telecom Company's Former Employees with Disabilities in Light of Bankruptcy



Served as lead counsel for the Official Committee of Long Term Disability Participants in the bankruptcies of a multinational telecom company, in which he secured a settlement of more than \$50 million for the company's former employees with permanent disabilities.

\$10 Million Mining Operation, Real Estate Acquisition

Served as real estate counsel in approximately \$10 million acquisition of mining operations and associated real estate in southwest Missouri, including negotiation of the purchase and sale agreement; drafting and negotiation of several new easement agreements for cross access, utilities and rights of way; negotiation of new mineral leases; and extensive title and survey review of approximately 880 fee-owned acres and approximately 1,000 leased acres of real estate.

Co-counsel to Foresight Energy, Affiliated Debtors in Chapter 11 Proceedings

Serving as co-counsel to Foresight Energy LP, a producer of thermal coal, and 30 affiliated debtors in Chapter 11 bankruptcy proceedings in the U.S. Bankruptcy Court for the Eastern District of Missouri.

Acquisition of Transmission Line Easements for Energy Client

Assisted client in securing transmission line easements by negotiation and condemnation.

Counsel to Bond Holders in Chapter 11 Proceedings for Telecom Company

Served as counsel to bond holders in Chapter 11 bankruptcy proceedings for a telecommunications and fiber optic network company.

Counsel to Peabody Energy in Chapter 11 Proceedings

Served as co-counsel to Peabody Energy, the largest private-sector coal company in the world, in its Chapter 11 bankruptcy proceedings.

Risk Transfer for Two Former Coal-Fired Power Plants

Represented the risk transfer buyer of two former coal-fired power plants and negotiated the collateral package with insurers.

Co-counsel to Armstrong Energy in Chapter 11 Bankruptcy

Served as co-counsel to the debtor, coal company Armstrong Energy, in its Chapter 11 bankruptcy proceedings.

Dismissal of Patent Claims with Prejudice for Telecom Company

Successfully defended client against patent infringement claims brought by non-practicing entity, resulting in the plaintiff voluntarily dismissing its claims with prejudice.

Managed Accelerator Program's Onboarding and Capital Investments for Startup Company Participants

Assisted utility client with onboarding of and capital investments in startup technology companies as part of accelerator program in coordination with a local university and capital investors. Assisted with closing investments in more than a dozen program participants.

Managed Multiple International Patent Portfolios for Manufacturer

Provided development and strategic counsel oversight for multiple U.S. and international patent portfolios for commercially valuable products and systems of a multinational electrical product manufacturer for more than 20 years.

Multimillion-Dollar Environmental Litigation for Fortune 150 Company

Representation of Fortune 150 petroleum and pipeline corporation in third-party multimillion-dollar environmental litigation arising out of operation of petroleum refinery in Illinois. Claims involve assessment of damages and assignment of third-party liability under the Illinois Environmental Protection Act and Illinois Contribution Act.

Obtained Reversal of Circuit Court Judgment Affirming Tax Assessments for Natural Gas Pipelines



Obtained a reversal in the Missouri Court of Appeals of a Missouri State Tax Commission ruling, upheld on appeal to the circuit court, that disallowed depreciation in the calculation of real and personal property tax assessments for a statewide system of natural gas pipelines. Because the pipelines crossed 16 counties in the state, each of the underlying county assessments had to be appealed separately, necessitating appeals in each district of the Court of Appeals.

Preference Action Defense for Public Utilities

Representation of public utilities in the defense of preference actions.

Representation of Equity Sponsor in Telecom Company Bankruptcy

Represented the equity sponsor in the bankruptcy of a telecommunications company.

Co-counsel in Bioenergy Companies' Chapter 11 Bankruptcy

Served as co-counsel to global bioenergy companies in Chapter 11 bankruptcy proceedings.

Secured Withdrawal of OSHA Citations for Manufacturing Client

Defended company that received two willful citations under OSHA lead standard when manufacturing with leaded brass. OSHA withdrew both willful citations.

Secured Withdrawal of OSHA Citations Relating to Hexavalent Chrome Standard

Defended company that received 14 citations under OSHA's hexavalent chrome standard, including alleged exceedance of PEL. OSHA withdrew 12 of 14 citations.

Defeated Actions Against Oil Pipeline Company

Defeated actions for declaratory judgment and injunction in the Circuit Court of Franklin County, Missouri, that permitted the clearing of properties for an oil pipeline in an upscale residential community.

Favorable Verdict in Condemnation Action for Utility

Tried a condemnation action through verdict in Missouri state court on behalf of utility. Successfully obtained a property value award millions less than the amount demanded by the property owner.

\$168 Million Sale for Public Utility

Represented public utility company in \$168 million managed sale disposition of electric generation facilities.

Secured Condemnation Ruling in Multi-State Oil Pipeline Construction Matter

Secured judgment of condemnation in connection with the construction of an oil pipeline spanning from Illinois to Oklahoma.

Obtained Judgment and Permanent Injunction for Oil Pipeline Company

Served as trial counsel in actions for declaratory judgment and permanent injunction arising from disputes over an easement. Obtained judgment for oil pipeline company that permitted clearing of easement for oil pipeline.

Arbitration Award in Favor of a Retail Gas Supplier

Obtained an arbitration award for a retail gas supplier awarding it every dollar it sought in damages, attorney's fees and arbitration expenses on its claim to enforce two unsigned contract amendments.

\$50 Million Energy Market Dispute for Regional Transmission Organization

Reached a settlement agreement for a regional transmission organization in a \$50 million energy market dispute with hedge funds.

\$18 Million Settlement of Arbitration for Coal Purchaser

Obtained an \$18 million settlement, reached during arbitration, for a coal purchaser arising from a producer's failure to deliver low-priced coal as market prices rose.

Multimillion-Dollar Judgment for Nation's Largest Wholesale Power Producer



Secured a multimillion-dollar judgment for the nation's largest wholesale power producer after a bench trial.

Arbitration Award in Favor of a Retail Power Seller

Won an arbitration award in favor of a retail power seller denying a commercial customer's claim for purported overcharges and awarding our client all of its arbitration expenses.

Arbitration Award and Federal Court Judgment Free Energy Company to Sell Overseas Assets

Obtained both an arbitration award and a federal court judgment in favor of subsidiaries of a publicly held energy company, restraining frivolous multimillion-dollar litigation in Guatemala, which freed our client to sell its assets in that country.

Prosecuted Claims Involving Purchase and Sale Contracts for Electrical Equipment

Defended and prosecuted claims involving purchase or sale contracts for electrical transformers used to operate light rail, and electrical switches and doors used on subway cars.

Arbitration Award Restraining \$100 Million+ Litigation in Guatemala

Earned an arbitration award restraining a more than \$100 million litigation in Guatemala against a U.S. domestic power wholesaler, which was confirmed by the federal court in Washington, D.C.

Counsel to the Unsecured Creditors Committee for a Petroleum Producer and Marketer

Served as counsel to the unsecured creditors committee for a petroleum producer and marketer in its Chapter 11 bankruptcy proceedings.