

Uncommon Wisdom
Common Sense®

In the rapidly changing energy industry, federal and state regulation has become more important than ever.

FERC and the various state public utility commissions are playing increasingly significant roles as the electric and natural gas markets are subject to increasing change at both the state and federal levels. The U.S. electric and gas markets are in a period of “re-regulating” and the market impacts of FERC’s actions, as well as those of state public utility commissions, are presenting new risks that must be managed. Additionally, the influence and impact of quasi-governmental regulatory bodies—such as regional transmission organizations and the various industry standards boards such as the North American Energy Standards Board and the North American Electric Reliability Council—have grown considerably in recent years.

Now is a time of unprecedented opportunity for those who know how to manage properly the business and the regulatory risks inherent in this dramatic shift within the energy industry. The current combination of regulation and competitive forces that exists today also makes it extremely difficult to successfully conduct business. The interrelationship between the power and natural gas markets adds further complexity and regulatory challenges.

In short, it is vitally important to know and understand markets at both the federal and state levels and where they are headed. We are committed to meeting the needs of our clients for sound advice and representation as they seek to respond to the changing nature of FERC and state PUC regulation. Our attorneys represent clients on a wide range of matters before FERC, the Securities and Exchange Commission, the U.S. Department of Energy (DOE), the Commodities Futures Trading Commission, the Environmental Protection Agency, state public service commissions, state and federal courts, and the U.S. Congress.

ELECTRIC INDUSTRY

The electric industry is a primary focus of Leonard, Street and Deinard’s Energy attorneys. We have represented traditional electric utilities, merchant transmission providers, utility subsidiaries (gas and electric), merchant power producers, cogenerators, power marketers, industrial energy consumers, and energy service providers before the FERC and in more than 20 state public utility commissions, including: California, Maryland, Minnesota, New Mexico, New York, Pennsylvania, New Jersey, Illinois and Texas.

STATE REGULATORY EXPERIENCE

We maintain an active practice before state agencies that oversee utility rates and regulatory compliance, as well as siting, routing and permitting of energy facilities. Our attorneys frequently represent clients before the Minnesota Public Utilities Commission, Minnesota Pollution Control Agency and the Minnesota Office of Energy Security in all matters of energy regulation. To promote client goals and obtain required administrative approvals, our goal is to build productive working relationships with agency staff members and other interested stakeholders.

The following list demonstrates the depth of our state regulatory experience:

Great Plains Natural Gas Co., a division of MDU Resources Group, Inc. (a regulated gas utility)—Our representation involves a variety of regulatory matters before the Minnesota Public Utilities Commission and two contested rate cases referred to the Office of Administrative Hearings.

Excelsior Energy Inc.—Our representation includes all aspects of the development of Excelsior Energy's Mesaba Energy Project, a 1,200-megawatt integrated gasification combined cycle electrical generating station to be located on Minnesota's Iron Range. Environmental and permitting matters included: combined federal Department of Energy and Minnesota Department of Commerce EIS; power plant siting permit, high voltage transmission line and natural gas routing permits from the Minnesota Public Utilities Commission; NPDES and Part 70/New Source Review Construction Authorization Air Permit from the MPCA; water appropriation permit from the DNR; and wetland permits from the U.S. Army Corps of Engineers and under the Minnesota Wetland Conservation Act. We also represent Excelsior in contested proceedings relating to the rates, terms and conditions of a Power Purchase Agreement for a portion of the output of the planned facility.

LS Power—We currently represent LS Power in the development of a gas-fired electric generation facility in Chisago County and a legislative effort to obtain a personal property tax exemption for the project, which involves work before the Minnesota Public Utilities Commission, the Minnesota Office of Energy Security, the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.

We also represented LS Power in its development of a 245-megawatt cogeneration facility in Cottage Grove, Minnesota.

Invenergy Cannon Falls LLC—We represented Invenergy in its development of a 351-megawatt natural gas-fueled electric generating station located in Cannon Falls, Minnesota. Specific matters included proceedings for a power plant siting permit issued by the Minnesota Environmental Quality Board and resolving gas-supply issues.

Tenaska and NRG Energy—We represented these two developers of the Lakefield Junction Station, a 550-megawatt simple-cycle, combustion turbine peaking plant project located in southern Minnesota, in all aspects of facility permitting.

We represented an independent transmission company in regulatory proceedings before the Minnesota Public Utilities Commission related to electric transmission and interconnection issues.

We represented an independent power producer before the Minnesota Public Utilities Commission on gas-supply issues associated with the sale of a local natural gas distribution company.

Horizon Wind Energy—We represented Horizon in all aspects of a 100-megawatt wind farm in southern Minnesota, including land use issues and certificate of need and permitting proceedings before the Minnesota Public Utilities Commission.

We currently represent a project subsidiary of **Noble Environmental Power, LLC** before the Minnesota Public Utilities Commission for its proposed 201-megawatt wind farm in western Minnesota. Our representation extends to siting, transmission line routing and the determination of need for the project.

We currently represent a project subsidiary of **RES Americas, Inc.** before the Minnesota Public Utilities Commission for its proposed 300-megawatt wind farm in southern Minnesota. Our representation extends to siting, transmission line routing and the determination of need for the project.

LEGISLATIVE REPRESENTATION

Leonard, Street and Deinard's Energy attorneys, in partnership with the firm's Government Relations team, regularly provide legislative representation to energy clients, including:

- Researching and drafting legislation.
 - Identifying, analyzing, monitoring and reporting on legislation of particular interest to clients.
 - Preparing position papers, giving congressional testimony, drafting legislative history and otherwise helping to educate legislators.
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- Advising clients on the strategy and procedures required for the successful processing of legislation.

RULEMAKINGS

Clients are fully represented by Leonard, Street and Deinard in rulemaking proceedings at the FERC and other administrative agencies. With the assistance of technical experts, firm input at these proceedings furthers the development of regulatory rules and policies that complement or enhance the client's business.

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