

## Energy Litigation

With one of the largest and most experienced energy practices in the state of Ohio and an expanding team in Chicago, Benesch litigators have prevailed for energy industry clients, resolving difficult commercial, commodity, regulatory and nonregulatory disputes in and out of court.

Our team is immersed in the industry, handling day-to-day issues, regulatory matters and litigation for our Energy-sector clients. As a result, we understand the industry and the challenges our clients face. We bring that knowledge and experience to bear when representing clients in state and federal courts, arbitrations and mediations, regulatory inquiries, investigations and enforcement actions, as well as energy proceedings regarding regulated and unregulated issues, particularly those brought before state public utility and power siting commissions.

Whether a dispute is in the normal course of business, an administrative matter or involves a multibillion-dollar transaction, our attorneys have the depth of experience and industry acumen to devise, negotiate and litigate a solution.

***Benesch's Energy Group is chaired by Trevor Alexander, named 2024's "Lawyer of the Year – Energy Regulatory Law" by Best Lawyers in America.***

### The Work We Do

Benesch represents some of the largest investor-owned electric and gas utilities in the nation, as well as competitive retail suppliers, rural electric cooperatives, municipal utilities, natural gas pipeline operators and a wide range of unregulated public/private industrial entities throughout the PJM and MISO regions. We represent clients in both regulated and unregulated proceedings, helping them avoid problems and resolve disputes while tapping into a growing range of energy projects and other opportunities. Throughout the years, we've built strong relationships with key industry players that often make the difference between success and failure in litigation and corporate transactions.

Our litigators handle a broad range of energy industry disputes, including regulatory lawsuits involving permitting and approvals, franchise, rate and fee issues, zoning and land use and electric power territorial disputes involving the Certified Territory Act. We also represent clients in business-related disputes, such as contractual disputes involving power generation transmission and sales agreements, contracts and service agreements and facilities design and construction contracts; as well as insurance coverage, labor and employment, environmental and safety and health matters.

Serving as counsel on projects throughout the country, we combine industry knowledge with regulatory acumen and litigation savvy to steer clients through government permitting and approvals and help them obtain tax benefits and keep their projects and business dealings on track while avoiding running afoul of state and federal laws and regulations. Other law firms also call on us to advise on projects and assist in complex energy-related lawsuits because of our vast knowledge and experience.

### **Regulatory Measures**

Our Energy Group regularly advises on and represents clients in a range of Public Utilities Commission of Ohio issues (PUCO), from rate case proceedings to regulatory inquiries, investigations and enforcement actions. Our team assists with integrated resource planning, siting requirements, environmental permits and licensing, facility construction, tariff issues and interconnection and supply agreements. We also help ensure our clients are fully compliant with the many complex regulatory measures governing construction, facilities operation, maintenance and repair of virtually every form of energy infrastructure.

### **Offering Crisis Management and Pre-Litigation Advice**

In a world of round-the-clock news cycles and social media coverage, the fallout from an environmental disaster can be worse than the actual lawsuit or investigation. At Benesch, we guide clients through the entire litigation process, including advising on public relations strategies and mitigating reputational risk.

Our litigators integrate seamlessly with the other members of our Energy Group, advising on mergers and acquisitions and other transactions, evaluating risks and revising contracts to ensure clients are well-positioned should a future dispute arise. By involving us early in the process, our clients are often able to avoid serious business disruptions and costly, lengthy litigation.

Understanding the complexities of the energy industry and experienced in resolving complex disputes for energy industry clients, we have what it takes to lead clients through virtually every type of energy-related issue, dispute, crisis or lawsuit.

## Representative Matters

- Represented three electric distribution utilities in a contested multibillion-dollar electric security plan proceeding.
- Litigated numerous base distribution rate cases on behalf of distribution utilities.
- Successfully defended a claim on an \$86 million letter of credit in a contested contractual dispute between a competitive retail electric service provider and a governmental aggregator.
- Obtained several million dollars in direct customer benefits for a municipal client as part of a contested electric security plan proceeding.
- Represented a state university regarding Power Siting Board approval for a 105.5 MW combined heat and power facility powered by natural gas. This facility will be the primary source for heat and power for the university's Columbus campus.
- Acting as national compliance counsel for one of the country's largest competitive retail electric service providers.
- Tried case to verdict in favor of an anaerobic digester qualified as a "public utility" exempt from township zoning authority.
- Representing utilities in eminent domain proceedings.
- Defended a distribution utility in a putative class action brought by a large industrial customer on behalf of itself and similarly situated, large commercial and industrial customers of FirstEnergy.
- Obtained and collected a \$5 million arbitration award in a complex contract dispute, for a utility generation affiliate against a commodity supplier and recovered fee award after appeal to the Sixth Circuit.