

## Energy Regulation

The energy industry is subject to a complex web of federal and state regulatory law in the U.S. Andrews Kurth lawyers are experienced with the full range of regulations affecting natural gas and oil producers and developers, interstate and intrastate pipelines, gas and power marketing companies, and power generating and transmission companies.

### **Understanding the full impact of energy regulations**

Both energy companies and consumers facing this regulation of the natural gas, oil and electric power industries turn to Andrews Kurth for guidance and advocacy. We know and understand the Federal Energy Regulatory Commission (FERC), Departments of Commerce, Energy, Interior and Treasury, and the state public utility regulatory commissions. We are very familiar with and experienced working with clients on matters involving the following federal energy statutes:

- Natural Gas Act
  - Natural Gas Policy Act
  - Outer Continental Shelf Lands Act
  - Pipeline Safety Act
  - Interstate Commerce Act
  - Federal Power Act
  - Public Utility Holding Company Act
  - Public Utility Regulatory Policies Act
  - Power Plant and Industrial Fuel Use Act
  - Export Administration Act
  - Foreign Corrupt Practices Act
- In addition, we have broad experience regarding federal and state public utility codes and regulations, as well as the foreign asset control and anti-boycott laws.

### **Working within the regulatory framework**

Our services range from general public policy counseling to practical compliance strategies regarding the most complex energy statutes and regulations. We:

- Appear before FERC in natural gas and electric proceedings representing entities such as pipelines, LNG project sponsors, marketing companies and gatherers
- Appear before state public utility commissions in electric and natural gas proceedings, working to implement innovative policies and demonstrate how our proposals further important policy goals
- Represent crude oil and natural gas production and pipeline companies in agency and judicial proceedings, including those before FERC, federal trial and appellate courts, involving rates and tariffs, pipeline construction, transportation services, enforcement actions, market power assessments and conformity with open access pipeline requirements
- Prepare and file pleadings with state and federal regulators on behalf of electric entities seeking to build new power plants, negotiate interconnection agreements, obtain exempt wholesale generator or qualifying facility status, sell power at market-based rates and transfer ownership interests in power facilities
- Advance the interests of generators, merchants and customers of electric power in regulatory proceedings concerning transmission access, market rates, tariffs, billing disputes and power operations of such regional managers as the California Independent System Operator, the Electric Reliability Council of Texas and the Independent System Operator-New England
- Represent large consumers of energy in state regulatory proceedings involving rates and terms and conditions of service
- Analyze proposed legislation, such as the proposed federal Energy Policy Act of 2003, using our knowledge of and strong ties with government decision makers.

### **Integrating Energy Law and Bankruptcy**

## Energy Regulation

Bankruptcy is increasingly a fact of life in some sectors of the energy industry. Andrews Kurth lawyers have been involved in the leading energy bankruptcy cases of the last several years. The firm's strength in both energy and bankruptcy law and the areas where they overlap is an asset to our clients. This means we can develop strategies for dealing with the broad picture. We avoid narrow and possibly inconsistent approaches under individual statutes that can impact corporate programming actions and regulatory proceedings.

### **Navigating the restructured marketplace**

Energy unbundling and restructuring present extremely complex legal issues. Our lawyers have substantial experience in these matters, particularly in California, Illinois and the Pacific Northwest, Pennsylvania and Texas. We advise clients on electric industry restructuring proceedings before all applicable state agencies. We have been involved in industry

restructuring proceedings affecting virtually all states that have unbundled services and restructured their retail electric industries, and are actively involved in proceedings before regional independent system operators.

### **Handling environmental regulatory concerns**

Our lawyers include former regulators and prosecutors with the EPA and Justice (DOJ), as well as the Solicitor for the U.S. Interior Department. Our lawyers work successfully with those agencies and many others (from the Corps of Engineers and the National Park Service to OSHA and the Department of Energy) to keep energy clients in compliance with the law, help them secure permits and respond to investigations. Building on our work for the electric power industry (recently we secured permits for 15 power plants in seven states), we can create permit tracking services that help clients verify all required

environmental permits, authorizations and notices and provide a solid foundation for contested permitting and nonattainment cases.

Our lawyers evaluate the environmental risks and liabilities in connection with billion-dollar mergers, acquisitions and asset sales annually. Many of these are energy industry asset securitizations involving multiple properties. For example, we addressed state regulators' concerns over control technology to complete the disposition of six Midwestern peaker power plants. We also can handle inspection and compliance reviews and resolve disputes about them, as in our settlement of a contamination and fraud claim in the sale of a manufactured gas plant on behalf of a property seller.

### **Complying with antitrust laws**

Andrews Kurth's integrated team of energy, corporate and antitrust lawyers have helped electric utilities, natural gas and oil producers and pipelines, and propane marketers and distributors achieve their business objectives in compliance with the antitrust laws. We provide all energy clients with:

- Preventive counseling to avoid allegations of price fixing, collusion or restraint of trade
- Skilled management of the Hart-Scott-Rodino acquisition and merger review process
- Effective guidance in responding to government investigations
- Sound defense of complaints before the Federal Trade Commission/DOJ.

For example, we provided antitrust and financing advice to the largest methanol plant joint venture in the world, and Hart-Scott-Rodino clearances for the sale of billions of dollars of pipeline assets in Texas.

### **Speaking the industry's language**

The modern energy industry and Andrews Kurth both began more than a century ago. Together we have grown from Texas roots to global leadership.

## Energy Regulation

*Today, as our clients deal with market forces and regulatory scrutiny, their challenges have never been greater—and our resources and capabilities have never been stronger. Our energy clients face a complex regulatory landscape, and when the rules keep changing they need straight talk that comes from in-depth industry experience. That's what we give them—around the world.*