Cullen | Dykman

Energy and Utilities Litigation

For well over one hundred years, Cullen and Dykman has represented the electric and natural gas industries in a broad range of litigated energy matters in federal and state court. Our litigation attorneys work closely with the firm's energy practice, which has a longstanding presence in the industry for nearly 170 years. Our focused, cross-disciplinary energy and utilities litigation team regularly tackles issues arising from transactions, regulatory proceedings, mergers and acquisitions, antitrust, franchise competition, enforcement and environmental issues. Specifically, the firm's commercial litigators, who represent the firm's energy clients, handle various disputes that concern the production, transportation, distribution and sale of natural gas and electric power. From real property tax issues, construction issues and supply arrangement disputes to litigation resulting from the operation of energy-related facilities, the energy litigation group has successfully represented clients at both trial and appellate levels of state and federal courts and in arbitrations and mediations. The firm enjoys a well-deserved reputation for excellence and results in the energy litigation arena.

Significant Litigation/Energy Matters:

1. A successful challenge to the NYS PSC's implementation of then-new federal tax law changes for ratemaking. The appellate division reversed and remanded the PSC's treatment of unbilled revenue.
2. Another successful challenge at the NY Supreme Court level was a challenge to the NYS PSC's ability to direct commercial speech. The court reversed and remanded a directive to the utility that would have required the utility to make statements about energy marketers with which it disagreed.
3. A third major item of litigation was a successful international arbitration for a major Canadian utility in defense of its multi-billion dollar energy sales contracts to a group of US utilities. The US utilities were attempting to void the contract as a result of a catastrophic ice storm that destroyed much of the seller's transmission system. The arbitration award held that the ice storm was not a breach of the contract.
4. Lastly, we were involved in several cases in which federal supremacy was found to void orders of state utility commissions, including a major case at the Second Circuit Court of Appeals that held that the NY PSC could not exercise concurrent jurisdiction over the siting of interstate gas pipelines.