



Barry Hyman

PARTNER

Barry draws from a deep well of experience to help clients navigate complex issues in an increasingly regulated legal environment.



Industries

Energy & Cleantech
— Energy Litigation
— Energy Regulatory

Practices

Environmental
Complex Litigation

Education

Case Western Reserve University School of Law, JD, 1984
Connecticut College, BA, 1981

Offices

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An accomplished trial attorney, he is known for his effective representation of public utilities, independent power producers, natural gas companies and other energy industry participants.

Barry understands the energy business. He succeeds by devising and implementing litigation strategies, and achieving desired results, consistent with his clients' regulatory obligations and business objectives.

Barry has been admitted to appear *pro hac vice* in state and federal district courts throughout the United States, including New York, Texas, Florida, West Virginia, Utah, Ohio, California, Virginia, and Pennsylvania.

Barry has represented energy companies around the country in a wide array of federal and state court cases, arbitrations, mediations and administrative proceedings involving:

- Clean Air Act citizens' suits
- Transportation and marketing of natural gas
- Construction of utility-scale renewable energy projects
- Power purchase agreements
- Open access transmission tariffs
- Natural gas sales agreements
- Power plant partnership disputes
- Power plant maintenance agreements
- Turbine defect claims
- Regional transmission partnership issues
- Government contracts

- Insurance coverage disputes
- *Force majeure* provisions
- Asset and stock purchase and sale agreements
- Shareholder derivative litigation
- Executive compensation disputes
- Internal investigations

Client Work

Significant Energy Industry Litigation Matters

- Trial counsel for transmission only public utility in federal court litigation to recover environmental response costs and for property damage arising from destruction of two submarine electric power circuits.
- Trial counsel for independent power producer in defense of a citizens' suit alleging violations of Federal and State regulations governing opacity and particulate matter emissions from coal fired power plant.
- Trial counsel for commodities trading firm in connection with alleged breach of master rail car lease for transportation of Bakken crude oil.
- Trial counsel for independent power producer in litigation arising in connection with alleged defaults under a long-term lease for an electric power generating plant.
- Trial counsel for public utility in dispute resolution proceedings involving renewable energy facilities
- Trial counsel for independent power producer in dispute arising in connection with alleged breach of electric power plant engine maintenance agreement and warranty claims for defective engine components
- Trial counsel for independent power producer in connection with alleged breach of fiduciary duty and other claims arising under partnership agreement for ownership of electric power plant
- Trial counsel for unregulated merchant energy subsidiary of publicly traded utility holding company in litigation challenging a declaration of force majeure under the NAESB standard form agreement for the purchase and sale of natural gas arising in connection with the Katrina and Rita hurricanes in the Gulf of Mexico
- Trial counsel for public utility in arbitration seeking damages for alleged breaches of representations and warranties in stock purchase agreement
- Trial counsel for unregulated merchant energy subsidiary of publicly traded utility in defense of class action lawsuits alleging price manipulation in connection with electric power auction
- Trial counsel for independent power producer in litigation over alleged breach of power and capacity contract arising in connection with an equipment failure
- Trial counsel in arbitration seeking damages for alleged breach of electric power marketing contract
- Trial counsel in litigation for alleged breach of an open access transmission tariff for delivery of electric power
- Trial counsel for public utility, in bankruptcy court, for pre-petition debt and post-petition adequate assurance claims and in related adversary proceedings involving efforts by debtor to reject and terminate electric power tariff
- Trial counsel in litigation for natural gas marketer in breach of natural gas sales agreement including issues arising from the industry-wide natural gas false price reporting scandal and allegations under the Robinson-Patman price discrimination and Sherman Act antitrust statutes
- Retained to represent utility's interests in winding up and liquidation of partnership established by eight major regulated utility companies, at insistence of the U.S. Federal Energy Regulatory Commission (FERC), to develop regional transmission organization for transmission of electric power

Significant General Business Litigation Matters

- Trial counsel in Federal Bankruptcy and Federal District Court claims proceedings and adversary actions in connection with substantial Ponzi scheme bankruptcy cases.
- Trial counsel in U.S. District Court for the Eastern District of Virginia for breach of contract, fraud and breach of fiduciary duty to consolidate four parcels of real estate for residential/golf course community in face of condemnation proceedings by county government
- Trial counsel in adversary proceeding, arising from largest-ever Securities Investor Protection Corporation (SIPC) liquidation of Wall Street clearing firm, involving securities clearing firm and broker dealer regulatory issues, allegations of market manipulation through illegal short selling, fraudulent securities transactions and net capital violations
- Trial counsel in civil suit by publicly traded health care company to recover damages for alleged breaches of covenants, representations and warranties in merger and acquisition agreement, fraud and violations of Medicare and Medicaid regulations

Publications, Presentations & Recognitions

Presentations

- “FTC Enforcement Actions in the Energy Industry,” Edison Electric Institute (Nov. 20, 2008)
- “Application of FERC’s Anti-Manipulation Rules to Energy Trading Firms,” Chicago Bar Association Futures and Derivatives Law Committee (Jun. 18, 2007)
- “Who Is Watching Now? Multi-Jurisdictional Enforcement Related to Energy Market Manipulation,” ABA Section on Public Utility Law (Apr. 2007)
- “FERC’s New Market Manipulation Rules: What Do Antitrust Lawyers Need to Know,” ABA Section on Antitrust Law (December 2006)
- “Government Enforcement Actions in the Energy Industry,” Edison Electric Institute (Jun. 17, 2004 and Jan. 13, 2005)

Recognitions

- Illinois Leading Lawyer, Law Bulletin’s *Illinois Leading Lawyers Network* (2009-2021)
- Top 10 Public Utilities Lawyers, Law Bulletin’s *Illinois Leading Lawyers Network* (2015)
- *Illinois Super Lawyers*, Thomson Reuters (2009, 2012)
- Peer Reviewed AV® Preeminent™, *Martindale-Hubbell* (Since 2002)

Boards, Memberships & Certifications

- American Bar Association
- Chicago Bar Association
- Energy Bar Association
- Illinois State Bar Association
- Cahn Fellows Program for Distinguished Principals, Chicago Advisory Board
- Village of Glencoe Caucus Nominating Committee, Elected 2020

Bar Admissions

Illinois

Court Admissions

US Court of Appeals, 7th Circuit

US District Court, Central District of Illinois

US District Court, Northern District of Illinois (Trial Bar)

US Court of Federal Claims