

NATURAL GAS PIPELINES

WE KNOW THE CHALLENGES. WE FIND THE SOLUTIONS.

The natural gas industry is undergoing a period of dramatic change brought about by the revolution in shale gas production. Gas pipelines face major challenges in adapting to these changes.

Wright & Talisman has long been recognized as a leader in representing natural gas pipelines before the Federal Energy Regulatory Commission (FERC), other federal agencies and the courts. With substantial experience in all sectors of the industry, including interstate, midstream and intrastate pipelines, we routinely counsel pipeline companies, gathering, processing, and storage providers, shippers, producers, energy marketers, gas distribution companies, project sponsors, investors, mining companies and others with interests in the rates and services of regulated energy companies.

PIPELINE RATES AND TARIFFS

We bring to the table more than six decades of experience in natural gas pipeline ratemaking and tariffs, including:

- cost of service, cost allocations and rate design
- rate of return on equity
- depreciation and negative salvage
- levelized rates, revenue-sharing and cost trackers
- litigating rate proceedings, prudence reviews and negotiating rate settlements
- market-based rates, including definitions of relevant product and geographic markets and developing market analysis
- preparing tariffs for new pipelines or services
- preparing and defending tariff changes
- administering tariffs

CERTIFICATES

With extensive experience in securing certificates of public convenience and necessity for new and expanded interstate pipeline and storage facilities, we have been at the forefront of several of the largest jurisdictional infrastructure projects constructed during the past twenty years. Our strategic role in these matters includes:

- counseling regarding conducting open seasons and negotiating precedent agreements and other contracts; analyzing issues concerning state vs. federal jurisdiction
- assembling, presenting and defending all elements necessary for a sufficient application and ultimate approval of the required certificate; advising on sufficiency of descriptions of facilities and proposals; assisting in evaluating pricing and rate design options
- preparing explanations of derivation of cost of service and initial rates; providing justification for negotiated and/or market-based rates
- evaluating and defending landowner, safety, economic and environmental issues; shaping agency environmental review of the application
- providing legal oversight of environmental compliance and reporting during construction; advising and providing litigation support regarding condemnation

MIDSTREAM OPERATIONS

We routinely provide a variety of services related to onshore and offshore gathering and processing operations, including analyzing jurisdictional issues, preparing petitions for declaratory orders, drafting requests for limited-jurisdiction certificates and waiver petitions, drafting and reviewing contracts and counseling regarding regulatory requirements and compliance issues.

CONTRACTS CONCERNING REGULATED SERVICES

We often participate in drafting and negotiating transportation and storage service agreements, precedent agreements, negotiated and discounted rate contracts, operational balancing agreements, interconnection agreements, etc., for new and existing pipelines and storage providers.

COMPLIANCE AND ENFORCEMENT

We routinely advise and assist clients regarding compliance and enforcement matters, including:

- standards of conduct and marketing affiliate rules
- regulatory requirements for negotiated rates, discounted rates, capacity release, open seasons and non-conforming contracts
- website and electronic bulletin board posting requirements
- developing compliance programs, cultures and management structures
- FERC and internal audits
- FERC enforcement investigations, inquiries and self-reporting
- no-action letters, general counsel opinions and declaratory orders
- contacts with FERC Enforcement Hotline and other inquiries to FERC staff

FEDERAL AGENCIES

Department of Energy (DOE) Import and Export Permits: We routinely assist clients in securing import and export authorizations pursuant to section 3 of the Natural Gas Act in connection with commodity sales and purchases across the international borders of Canada and Mexico.

Department of Transportation (DOT) Pipeline Safety: Clients call on us to handle matters under the jurisdiction of DOT and its Pipeline and Hazardous Materials Safety Administration, including compliance with pipeline safety regulations, requirements governing maximum allowable operating pressure, agency rulemaking proceedings and issues related to mining conducted beneath pipelines.

Outer Continental Shelf Lands Act (OCSLA): We frequently assist and counsel clients regarding issues under the OCSLA before FERC, the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement and the federal courts. Such issues have included interpretation and enforcement of the OCSLA's competitive principles, rulemakings, citizen suits to enforce the OCSLA and appeals of administrative actions.

Rulemakings: The firm's depth of experience is particularly valuable to our clients in the evaluation of newly proposed federal regulations and policy statements. Our knowledge of our clients' industries is vital in analyzing the potential effects of regulatory initiatives on clients' businesses and in preparing comments and pleadings to help shape the outcome of agency rulemaking processes.

JUDICIAL REVIEW

Regularly engaged to evaluate the merit of pursuing judicial review of adverse regulations and rulings, we are exceptionally experienced in all aspects of appellate litigation in the United States Circuit Courts of Appeals and the Supreme Court of the United States. Our experience translates into a deep understanding of recurring issues in such appeals, including jurisdiction, standing, ripeness, exhaustion of remedies and others.