



David R. Poe

Of Counsel

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About Dave

Dave Poe represents and provides advice to clients who own infrastructure assets subject to governmental regulation in their ownership and/or operation. These clients include industrial companies, electric utilities, hydroelectric generators, telecommunications and cable TV companies. The regulatory agencies involved include the Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC) and many state public-service commissions. His litigation experience includes contested matters before these agencies and judicial review in various courts, including the Supreme Court and a number of the U.S. Courts of Appeal.

He counsels investors, owners and potential owners with respect to hydroelectric and transmission investments, including issues arising under state law as well as both Parts I and II of the Federal Power Act. In addition, he represents clients in contract negotiation, antitrust counseling, risk management and issues relating to public-utility holding companies and affiliates.

Dave also advises and represents clients in administrative and arbitration proceedings relating to complex factual matters involving hydroelectric licensing (including relicensing) and certification, environmental and recreational issues, accounting issues, interconnections, transmission and public utility rates and tariffs, contracts and complaints. He also has knowledge of generic administrative rulemaking proceedings involving deregulation and competition relating to adaptation of traditional regulatory models to emerging technology and competitive markets.

Recent Notable Matters

Major producer of aluminum — ongoing representation of the client, which is also a public utility holding company by virtue of its ownership and operation of hundreds of MW of electric generation and

transmission. Successful restructuring of that company's regulated electric assets and related external power supply arrangements and inter-company operating arrangements into separate public companies.

Major industrial power supplier — extensive and ultimately successful multijurisdictional litigation over relicensing of a 210 MW, multi-development hydroelectric project, including litigation of Clean Water Act certification, ownership issues, conflicts between federal and state regulators, negotiation of partial settlements and ultimately divestment of the project

Investment funds and public utility holding companies — advice regarding possible purchase of various hydroelectric portfolios

New England utility — litigation in U.S. Court of Appeals of cases involving rates of return on transmission assets and contractual expansion rights

Eastern U.S. utility — litigation and negotiated settlement of complex headwater benefits case involving multiple owners over decades of ownership

Eastern U.S. utility — successful amendment of a hydro license to permit a \$450 million project redevelopment through the addition of a new powerhouse and an additional 100 MW of installed capacity

Western U.S. utility — arbitration of dispute with Native American tribe over sale of 290 MW dam

Western U.S. utility — sale of 630 MW hydroelectric generation portfolio involving license compliance issues

Southeastern U.S. utility — amendments to formula rates for wholesale electric sales, Open Access Transmission Tariffs and regulatory accounting treatment for acquisition premium

Publications and Speeches

"Reflections," *ABA Section of Infrastructure and Regulated Industries*, Spring 2017.

“News You Can Use on Net Neutrality,” *Electric Light & Power*, June 2015.

“Emerging Legal and Regulatory Matters Impacting Northwest Hydro,” *Northwest Hydroelectric Association Annual Conference*, February 2015.

“Hot Topics in the Hydro Arena,” *National Hydropower Association Annual Conference*, April 2014.

“Court affirms FERC ROE policy, but faults FERC for not applying official notice,” *Power Engineering*, June 2013.

“High Noon in the 7th Circuit,” *Energy & Mining International and Energy & Infrastructure*, June 2013.

“Court affirms FERC ROE policy, but faults FERC for not applying official notice,” *Electric Light & Power*, May 2013.

“A New Groundwork For Applying The Mobile-Sierra Standard,” *Law360*, March 2013.

“PPL Montana LLC v. Montana: Supreme Court Decides Riverbed Ownership Dispute,” *Recent Developments in Public Utility, Communications and Transportation Industries 2012*, American Bar Association’s Section of Public Utility, Communications and Transportation Law, 2012.

Education

Duke University School of Law, J.D.

1974

University of Missouri, B.S.M.E.

1970 – *cum laude*, *Honors Scholar*

Noteworthy

The Legal 500 United States, Energy Regulatory: Conventional Power, 2017, 2019; Energy Litigation: Conventional Power, 2017; Energy: Regulatory, 2013

BL Rankings, *Best Lawyers*, Energy Law, 2021 - 2022

Internet Brands, Inc., *Martindale-Hubbell® AV® Preeminent™ Rating*

American Bar Association, Infrastructure and Regulated Industries Section, Samuel H. Porter Award, 2017

University of Missouri, Engineering Honor Award, 2012

The Catholic University of America's Columbus School of Law, Adjunct Faculty, 1992 - 1998

Affiliations

ABA Board of Governors, Finance Committee, 2013 - 2016; Investment Subcommittee, 2013 - 2016;
Subcommittee on Executive Compensation, 2013 - 2016

Delegate to the ABA House of Delegates

American Bar Association, Chair, Section of Public Utility, Communications, and Transportation Law, 2003
- 2004

CCH Power and Telecom Law, Advisory Board, 1997 - 1999

University of Missouri Columbia, Advisory Board, Rate Symposium, 1997 - 1999

Federal Energy Bar Association, Member

Federal Communications Bar Association, Member

Bar Admissions

District of Columbia

New York

North Carolina

Maryland