



Eric L. Christensen

Of Counsel

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Eric is a leading energy and natural resources attorney in the Pacific Northwest.

He assists renewable and traditional energy companies, as well as major energy consumers, to navigate the complex legal and regulatory systems governing the nation's energy industry. With more than 30 years of experience, Eric has successfully represented clients in litigation and regulatory matters, ranging from the U.S. Supreme Court to proceedings before federal and state agencies. Before entering private practice, Eric served as Assistant General Counsel at Snohomish County (WA) Public Utility District, one of the largest publicly-owned utilities in the U.S., and as a trial attorney at the U.S. Federal Energy Regulatory Commission (FERC).

Eric's litigation experience includes successfully representing Snohomish County Public Utility District in a series of lawsuits arising from the Enron crisis involving action at every level of the federal courts, including the U.S. Supreme Court, as well as administrative litigation resulting in an order requiring Enron to disgorge more than \$1 billion. He has also litigated dozens of matters in the federal and state courts. These include federal court challenges to the landmark federal orders restructuring regulation of the electricity, natural gas, and oil pipeline industries in the U.S. and critical regulatory and Constitutional issues in the Washington courts, including several matters before the Washington Supreme Court.

Eric guides clients through transactions involving renewable and traditional energy facilities, energy and derivatives trades, environmental concerns, engineering and construction services, early-stage and traditional financing, risk management, and government grants and tax incentives. He assists clients with energy and infrastructure transactions throughout Washington, including wind generation, hydroelectric, and renewable energy projects as well as the contracts governing sales of power and transmission from the Northwest's huge federal hydroelectric and transmission systems. He has put together transactions involving financing, engineering services, construction of buildings and similar facilities, and energy and commodity trades.

Eric also assisted with landmark litigation in both the state and federal courts as well as successfully litigated claims involving liability for hazardous waste contamination and assisted developers to reclaim and redevelop brownfields sites.

Education

- University of Kansas (B.S., *with High Honors*, 1984)
 - Biology
- Stanford University (J.D., *with Honors*, 1987)
 - Order of the Coif
 - Stanford Law Review, Member
 - Stanford Environmental Law Society, President and Editor
 - Stanford Public Interest Law Foundation, Vice President
 - Olaus & Adolph Murie Award for Writing in Environmental Law

Bar Admissions

- Washington
- District of Columbia
- Idaho

Court Admissions

- U.S. Supreme Court
- U.S. District Court – Eastern District of Washington
- U.S. District Court – Western District of Washington
- U.S. District Court - Idaho
- U.S. Court of Appeals - First Circuit
- U.S. Court of Appeals - Second Circuit
- U.S. Court of Appeals – Fourth Circuit
- U.S. Court of Appeals – Fifth Circuit
- U.S. Court of Appeals – Seventh Circuit
- U.S. Court of Appeals - Eighth Circuit
- U.S. Court of Appeals - Ninth Circuit
- U.S. Court of Appeals – Tenth Circuit
- U.S. Court of Appeals - Eleventh Circuit
- U.S. Court of Appeals - D.C. Circuit

Professional Affiliations

- Northwest Environmental Business Council, Member
- Energy Bar Association, Member
- Board of Directors, NatureBridge (Olympic National Park Campus)

- Seattle Rotary No. 4, Sustainability Committee

Honors & Awards

- *The Best Lawyers in America*®, a Best Lawyers® publication, recognition in Environmental Law (2018-2021)
- *Super Lawyers*, part of Thomson Reuters, Washington Super Lawyer (2014-2020)
- Everett (WA) Area Chamber of Commerce, Employee of the Year (2005)
- American Public Power Association, James E. Donovan Award for Individual Achievement (2005)
- American Public Power Association, Recognition for Achievement in Legal Field (2004)
- Public Power Council Special Award (2004)

Representative Matters

Eric's general environmental experience includes:

- Successfully representing the developer of a Tacoma brownfield development in addressing hazardous waste contamination issues with several municipal agencies and the Washington Department of Natural Resources.
- Successfully representing a property developer to recover more than \$1 million for cleanup of petroleum contamination.
- Successfully representing property owners to protect themselves from hazardous waste claims in sales of property.
- Successfully litigating matters concerning landmark orders restructuring regulation of the electricity, natural gas, and oil pipeline industries in the U.S.
- Defending a site owner in administrative and court litigation successfully minimizing costs of cleanup of contamination from wood treating operation.
- Successfully defending a small business from claims arising from a spill of oil into waters of the State of Washington.
- Helping assure compliance with Endangered Species Act, Migratory Bird Treaty Act and other statutes protecting raptors in construction of a hydroelectric project in Washington.
- Successfully defending licensed and ongoing hydroelectric project from claims arising under the Endangered Species Act.
- Developing and implementing a National Environmental Protection Act compliance strategy for a federal rulemaking creating open access to the nation's electric transmission system.

- Representing a utility in licensing for experimental tidal electric generation project, including compliance with Endangered Species Act, Marine Mammal Protection Act, Coastal Zone Management Act, and state analogues.
- Successfully representing clients in multiple administrative proceedings and court cases involving Washington State Environmental Protection Act.
- Successfully permitting and obtaining access easements for projects on U.S. Forest Service, U.S. Bureau of Land Management, and Washington Department of Natural Resources lands.

See also representative [Transactions](#), [Energy Regulatory Matters](#), and [Litigation](#)

Transactions

Transmission Development and Contracts

- Advising the developer of a transmission line using advanced HVDC technology concerning Bonneville Power Administration and regional energy matters, regulatory, contract, licensing, right-of-way, permitting and political issues.
- Drafting and negotiating contracts involving the transfer of transmission rights on one of the primary interties between the Northwest and California.
- Drafting and negotiating a contract to secure capacity on the Bonneville Power Administration system through 2028.
- Drafting and negotiating a series of contracts among Puget Sound-area utilities creating a coordinated strategy to address transmission curtailments.

Power Supply and Interconnection Contracts

- Negotiating and drafting long-term contracts with BPA, including a 17-year contract for purchase of power for BPA's largest customer under a "Slice/Block" structure and "TRM" construct, transmission contracts, and interconnection and balancing services contracts.
- Drafting and negotiating long-term power supply contracts with private power marketers.
- Drafting and negotiating contracts for interconnection and transmission of power from a proposed 500 MW natural gas generation station.

Wind Power Contracts

- Drafting and negotiating contracts for all output from Iberdrola Renewables' 100.8 MW Hay Canyon Wind Project, all output from Horizon Wind Energy's 96.6 MW Wheat Field Wind Project, and share of output from White Creek Wind Project from project participant Lakeview Power & Light, including contracts for corporate parental guarantees, financing agreements, performance guarantees, and related subsidiary contracts.

Hydropower Acquisition and Construction

- Drafting and negotiating contracts for the acquisition of real estate and project assets, public works contracts, contracts for environmental and other services, road access, and acquisition of materials related to the construction of Snohomish County PUD's \$29 million Youngs Creek Hydroelectric Project.
- Representing the District in the transfer of FERC license and related issues, and permitting issues arising with U.S. Forest Service, Snohomish County, and Washington state agencies; Youngs Creek is the first hydro project to go online in Washington in nearly two decades and is the winner of Renewable Energy World's 2012 Hydro Project of the Year award and the "2012 Honor Award" from the Seattle Section of the American Society of Civil Engineers.
- Conducting due diligence review, site inspection, and legal analyses related to the acquisition and potential acquisition of an existing Northwest hydroelectric project, and for the acquisition of licensed but unbuilt projects.

Geothermal Transactions

- Drafting and negotiating contracts concerning geothermal lease, drilling and access rights on private, state and federal lands, and worked with the project team to obtain necessary licenses and permits from the Department of Natural Resources and U.S. Forest Service.
- Negotiating an agreement for geothermal exploration involving approximately 500,000 acres of privately-owned forest lands in Washington and Oregon.
- Drafting and negotiating an agency agreement aimed at obtaining a geothermal exploration contract in Nicaragua.

Solar Contracts

- Drafting and negotiating contracts for the development of Oregon solar project involving private developer, Washington publicly-owned utilities, and electric coop, to obtain power output, interconnection, and transmission rights.
- Negotiating a variety of contracts related to solar demonstration and community-owned solar projects.
- Developing a strategy for maximizing the value of solar development in the Pacific Northwest based on federal and state tax incentives, rebates, portfolio requirements, and RFP requirements.

Biomass

- Drafting and negotiating both the original and the revised contracts to interconnect and purchase output from the Hampton Mills biomass generator in Darrington, Washington.

Biogas

- Drafting and negotiating contracts for the interconnection and purchase of power from the Qualco Dairy Digester, then negotiating innovative agreement to transfer power output to Puget Sound Energy.
- Drafting and negotiating both the original and renewal contracts for the purchase of output from the Klickitat PUD landfill gas generator and landfill gas generator at Cathcart, Washington.

REC Contracts

- Drafting and negotiating a number of contracts for the sale of Renewable Energy Credits from renewable energy projects.

Asset Sales

- Representing co-owner of Washington's largest coal-fired power plant in the sale of plant, including obtaining all required regulatory approvals, contracting, and closing.

Energy Regulation

Eric's energy regulatory experience includes:

- Drafting and filing extensive comments on Federal Energy Regulatory Commission proposed rulemaking concerning key "Bulk Electric System" definition on behalf of a coalition of public power entities representing more than 200 individual utilities across the Western Interconnection.
- Representing a Pacific Northwest utility in administrative proceedings before the Federal Energy Regulatory Commission and the Western Electricity Coordinating Council concerning the definition of "Bulk Electric System," a critical issue for defining the scope of federal electric reliability regulation.
- Filing extensive comments on behalf of a Western utility in response to Federal Energy Regulatory Commission request for comments and a notice of proposed rulemaking concerning measures considered by FERC to improve integration of renewable generation, principally wind and solar power, into an interconnected electric grid.
- Successfully representing a public power utility in opposing regional transmission organization in the Pacific Northwest, including opposition at the federal level, litigation (including the successful appeal of FERC Order No. 2000), participation in West-wide and regional processes aimed at creating a regional transmission organization.
- Helping craft a compromise that allowed the formation of regional transmission planning body to capture many of the benefits of the RTO at substantially lower costs.

- Representing Bonneville's largest customer in critical Bonneville administrative proceedings, including "Subscription" process (plan for allocating BPA capacity following expiration of all BPA contracts in 2001), "Regional Dialogue" (long-term plan for allocation of BPA resources, resulting in "Tiered Rate Methodology"), "Residential Exchange" (administrative and court proceedings challenging large payments to regional investor-owned utilities by BPA), and power and transmission rate cases.

Litigation

Eric's major cases include:

- *Winding Creek Solar, LLC v. Peevey et al.*, Ninth Cir. No. 17-17531 (argued February 2019) (Argued for solar project developer challenging California Renewable Energy Market Access Tariff as non-compliant with PURPA).
- *Maytown Sand & Gravel, LLC v. Thurston County*, 198 Wn.App. 560, 395 P.2d 149 (2017), *affirmed*, 191 Wn.2d 392, 423 P.3d 233 (2018) (Successful defense on appeal of \$14 million award, the then-largest award for abuse of land use process by local government in Washington history) (co-counsel with Foster Pepper, which represent co-plaintiff Port of Tacoma).
- *Merced Irrigation District v. Barclays Bank PLLC*, Case No. 1:15-cv-04878-VM-GMG (2018) (\$29 million settlement in class action claims against Barclays Bank for manipulation of four major Western electricity market hubs in 2006-08 (co-counsel for class)).
- *Allco Renewable Energy Limited v. Massachusetts Electric Co.*, 875 F.3d 64 (1st Cir. 2017) (Argued appeal of PURPA enforcement/jurisdiction matter).
- *PaTu Wind Farm, LLC v. Portland General Electric Co.*, 150 FERC ¶ 61,032, *reh'g denied*, 151 FERC ¶ 61,223 (2016), *appeals denied sub nom.*, *Portland General Electric Co. v. FERC*, 854 F.3d 692 (D.C. Cir. 2017) (Successful litigation at FERC and before D.C. Circuit involving PURPA and FPA requirements for scheduling and delivery of power from small wind farm in Eastern Oregon to Portland General Electric's service territory).
- *Public Utility District No. 1 of Okanogan County v. State of Washington*, 182 Wn.2d 519, 342 P.3d 308 (2015) (amicus brief filed on behalf of Washington Public Utility Districts Association, Snohomish County PUD & Washington Rural Electric Cooperative Association concerning rights of publicly-owned utilities to condemn lands administered by the Washington Department of Natural Resources).
- *Kootenai Electric Cooperative, Inc.*, 143 FERC ¶ 61,232, *reh'g denied*, 145 FERC ¶ 61,229 (2013) (co-counsel for rural electric cooperative; obtained declaratory order from FERC clarifying that coop's transmission rights allow it to deliver power from its Idaho "Qualifying Facility" into Oregon to obtain favorable "avoided cost" rates under PURPA).

- *Lahey et al. v. Puget Sound Energy, Inc.*, 176 Wash.2d 909, 296 P.3d 860 (2013) (amicus brief filed on behalf of Washington Public Utility Districts Association, Snohomish County PUD, Clark County PUD & Seattle City Light successfully defeating nuisance claim for exposure to electromagnetic fields).
- *Greater Wenatchee Regional Events Center Public Facilities District v. City of Wenatchee*, Washington Supreme Court No. 86552-3 (decision issued October 25, 2012) (represented Public Facilities District in challenge involving interpretation of municipal debt limits under Washington State Constitution) (co-counsel with Donald S. Cohen).
- *Enron Power Marketing, Inc., et al.*, 119 FERC ¶ 63,013 (2007), *vacated as moot in light of settlement*, 123 FERC ¶ 61,249 (2008), *order reinstated*, 126 FERC ¶ 61,230 (2009) (headed legal team in administrative trial resulting in order for disgorgement of \$1.6 billion in unjust profits from Enron Corp. and declaration that \$180 million “termination payment” sought from client is unjust and unreasonable and therefore contrary to the Federal Power Act).
- *Portland General Electric Co. v. Bonneville Power Administration*, 501 F.3d 1109 (9th Cir. 2007) & *Golden Northwest Aluminum Co. v. Bonneville Power Administration*, 501 F.3d 1037 (9th Cir. 2007), *cert. denied*, 128 S. Ct. 2902 (2008) (supervised group of attorneys who successfully challenged BPA contracts involving the Northwest Power Act’s Residential Exchange Program, ultimately resulting in savings of approximately \$1 billion to publicly-owned utility customers of BPA; primary drafter of joint brief successfully opposing Supreme Court review of related case)(related case: *Public Utility District No. 1 of Snohomish County, Washington v. Bonneville Power Administration*, 506 F.3d 1145 (9th Cir. 2007)).
- *Public Utility District No. 1 of Snohomish County, Washington v. Morgan Stanley Capital Group, Inc.*, 471 F.3d 1053 (9th Cir. 2006), *aff’d and remanded*, *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County, Washington*, 128 S.Ct. 2733 (2008) (successfully briefed and argued challenge to major FERC order in the Ninth Circuit; primary drafter of joint Supreme Court brief).
- *Spectrum Glass Co. v. Public Utility District No. 1 of Snohomish County, Washington*, 119 P.3d 854 (Wash. App. Div. I, 2005) (briefed and assisted in successful defense of claim asserting that utility had entered into fixed-rate contract for power supply).
- *Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001) (successfully briefed and argued challenge to FERC Order No. 2000 suggesting it could approve Regional Transmission Organization in the absence of clear showing of consumer benefits).
- *Union Pacific Fuels, LP v. FERC*, 129 F.3d 157 (D.C. Cir. 1997) (briefed and argued successful defense of agency order concerning natural gas pipeline ratemaking).
- *Southwest Center for Biological Diversity v. FERC*, 967 F. Supp. 1166 (D. Az. 1997) (successful defense of agency order concerning compliance with Endangered Species Act in context of hydroelectric licensing).

- *Public Utilities Commission of California v. FERC*, 100 F.3d 1451 (9th Cir. 1996) (briefed and argued successful defense of agency order concerning federal jurisdiction over natural gas pipeline).
- *Associated Gas Distributors v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996) (successful defense of FERC's landmark Order No. 636, which resulted in major restructuring of regulation of the natural gas industry).
- *Association of Oil Pipelines v. FERC*, 83 F.3d 1424 (D.C. Cir. 1996) (briefed and argued successful defense of major order reforming regulation of oil pipeline industry).
- *Bangor Hydro-Electric Co. v. FERC*, 78 F.3d 659 (D.C. Cir. 1996) (briefed and argued challenge to agency order concerning fish passage requirements for federally-licensed hydroelectric project).
- *National Fuel Gas Supply Corp. v. FERC*, 59 F.3d 1281 (D.C. Cir. 1995) (briefed and argued successful defense of agency order reforming natural gas pipeline contracts).
- *El Paso Natural Gas Co. v. FERC*, 50 F.3d 23 (D.C. Cir. 1995) (briefed and argued successful defense of agency order concerning jurisdiction over natural gas facilities crossing international border).
- *Shell Oil Co. v. FERC*, 47 F.3d 1186 (D.C. Cir. 1995) (briefed and argued successful defense of agency order concerning regulation of offshore oil pipelines under the Outer Continental Shelf Lands Act).
- *Independent Energy Producers Association, Inc. v. California Public Utilities Commission*, 36 F.3d 848 (9th Cir. 1994) (filed brief for *amicus curiae* concerning scope of federal preemption for setting rates for independent power producers under the Public Utilities Regulatory Policies Act)
- *Wisconsin Public Service Commission v. FERC*, 32 F.3d 1165 (7th Cir. 1994) (successfully briefed and argued appeal of agency order concerning authority to require construction of fish passage facilities on federally-licensed hydroelectric projects).
- *Town of Boylston v. FERC*, 21 F.3d 1130 (D.C. Cir. 1994) (briefed and argued case involving charges for nuclear decommissioning costs).
- *PUD No. 1 of Jefferson County, Washington v. Washington Dept. of Ecology*, 511 U.S. 700 (1994) (represented FERC in process of developing unified federal position on U.S. Supreme Court appeal involving scope of mandatory conditions that are permissible for states to impose on FERC hydropower licensees under Clean Water Act Section 401(a)).
- *Elizabethtown Gas Co. v. FERC*, 10 F.3d 866 (D.C. Cir. 1993) (briefed and argued successful defense of agency order allowing "unbundling" of natural gas pipeline transmission and commodity rates and allowing market-based rates for commodity).
- *Northeast Utilities Service Co. v. FERC*, 993 F.2d 937 (1st Cir. 1993) (briefed case involving major utility merger).

- *Northwest Pipeline Corp. v. FERC*, 986 F.2d 1330 (10th Cir. 1993) (briefed and argued successful defense of agency order involving take-or-pay charges paid by natural gas pipeline).
- *Habersham Mills v. FERC*, 976 F.2d 1381 (11th Cir. 1992) (briefed and argued successful defense of federal hydropower licensing authority against attack on Commerce Clause grounds).
- *Friends of the Ompompanoosuc v. FERC*, 968 F.2d 1549 (2nd Cir. 1992) (briefed and argued successful defense of agency order granting federal license to small hydroelectric power developer).