

# Saving a Vital Interstate Industry from a Patchwork of State Laws

Client:	<b>Dynegy Inc.</b>
Industry:	Energy
Area of Law:	Antitrust
Venue:	Supreme Court of Tennessee
Result:	Won dismissal of potential class action based on state antitrust claims



*“If we were to hold that this state could impose restrictions on the interstate wholesale natural gas market by way of its antitrust laws, we would imply that every other state could do so as well.”*

—Tennessee Supreme Court ruling in *Leggett, et al. v. Duke Energy, et al.*

For several years, Pillsbury litigators have traveled across the country defending Dynegy Inc. against what the Tennessee Supreme Court aptly described as “a complex, nationwide effort...challenging the pricing practices of wholesalers of natural gas.” In the process, Pillsbury has achieved a long string of victories.

Our latest victory came in Tennessee, where the state’s highest court ruled in *Leggett, et al. v. Duke Energy, et al.* in favor of Pillsbury’s arguments on behalf of a joint defense group representing seven natural gas wholesalers.

The court agreed that federal law preempted application of the Tennessee Trade Practices Act to wholesale gas markets—despite a decision by Congress to remove some wholesale transactions from the Federal Energy Regulatory Commission rate-making authority. The Tennessee Supreme Court reversed an intermediate appellate court, and dismissed all of the putative class action claims against defendants.

This win follows a federal court victory in related Multi-District Litigation, which included putative class action and individual lawsuits from Wisconsin, Colorado, Kansas and Missouri. In response to Pillsbury’s briefing, the MDL judge reversed his prior order and ruled that plaintiffs’ state law claims will be preempted when the defendants establish that allegedly manipulated index prices were used in transactions subject to FERC’s jurisdiction.