

CASE STUDY

\$6 Billion Electric Transmission Infrastructure Project Sets Regulatory Standard



Client:	PacifiCorp
Matter:	Obtaining electric transmission rate incentives at the Federal Energy Regulatory Commission (FERC) for proposed 2,000 mile long extra-high voltage Energy Gateway Transmission Project.
Area of Law:	Energy regulation
Result:	Established precedent-setting return on equity incentive under FERC's electric transmission rate policy, and helped pave the way for first-of-its-kind energy superhighway.



An Ambitious Project

In the wake of the increased attention being paid to energy security and supply, one of the nation's fundamental challenges is how to link renewable energy sources to the locations where their output is consumed. In the western U.S., where such distances can be measured in the hundreds and thousands of miles, Pillsbury client PacifiCorp aims to bridge the gap.

A division of Berkshire Hathaway's MidAmerican Energy Holdings Company, PacifiCorp is an investor-owned utility based in Portland, Oregon that serves 1.7 million customers in six western states. The company has a bold and far reaching plan: to create a \$6 billion, multi-state transmission expansion project to create 3,000 MW of badly needed transmission capacity over 2,000 miles of new transmission lines. But to help move ahead, the company needed FERC to make a finding that the project deserved a return on equity (ROE) adder—an additional return added to a regulated utility's base ROE—under FERC's electric transmission rate incentive policy.

Unparalleled Project Scope

In response to the Energy Policy Act of 2005, FERC established policies that provide incentive-based rate treatment for transmission infrastructure investment projects. These policies help ensure the reliability of the bulk power transmission system and/or reduce the cost of delivered power to customers by reducing transmission congestion. While FERC had previously granted similar incentives to smaller regional projects, it had not done so with a project of the size, scope and cost of PacifiCorp's. Pillsbury's FERC lawyers, with their experience in both working with FERC staff and with shepherding several similar proposals through the agency, counseled PacifiCorp on how best to present the Project in light of FERC's incentive standards so that it maximized its chances of getting the highest ROE possible.

Putting to work their practical and substantive knowledge and experience, the Pillsbury team drafted and filed a Petition for Declaratory Order that demonstrated that the Project qualified for the incentives contemplated by FERC's policy.

Setting the Transmission Rate Incentive Standard

Within three months of filing the Petition, FERC approved a 2% adder, by far the largest awarded to date for a project that was not independent of an investor-owned utility structure, nor was part of a regional transmission organization planning process. The FERC order called the Project "one of the most ambitious electric infrastructure projects planned in the western United States in the past two decades" and granted the Petition over the arguments of several protesters.

Having secured a standard-setting ROE adder, the project is poised to move forward. The first segments are expected to come online in 2010, establishing a new transmission backbone, utilizing advanced technologies, that will reduce transmission congestion and bring renewable energy to consumers across the Western U.S. By working with experienced FERC counsel well before it ever filed its FERC petition, PacifiCorp was able to obtain regulatory incentives sufficient to justify its massive energy infrastructure investment—one of the largest of its kind in decades.