

CASE STUDY

Delivering the Oral Argument to Win Dismissal of Nine Cases Across Seven States

“Dynergy is extremely pleased with Pillsbury’s leadership in these complex cases and with the resulting dismissals. They are our go-to firm for this kind of bet-the-company litigation.”

—Jason Buchman, Former Vice President and Dynergy Group General Counsel



Client:	Dynergy
Industries:	Energy, natural gas
Area of Law:	Antitrust
Venues:	Multidistrict litigation in Nevada that included putative class actions and independent claims filed in Colorado, Illinois, Kansas, Missouri and Wisconsin
Result:	Won dismissal of all state claims that comprised the multidistrict litigation

A Pillsbury litigation team achieved victory on behalf of longtime client Dynergy and nine other major energy companies alleged to have manipulated prices in the 2000-2001 Western states energy crisis. In a Nevada courtroom, a Pillsbury litigator presented oral argument for the defendants’ summary judgment motion that resulted in the U.S. District Court’s dismissal of nine cases across multiple states. U.S. District Judge Philip Pro ruled that the state claims are barred because the Federal Energy Regulatory Commission had exclusive jurisdiction over the price-reporting practices at issue.



The ruling is the team’s latest success in defending the client on various related claims over alleged manipulation of published index prices for natural gas. Last year the team scored a victory when the Tennessee Supreme Court ruled that retail gas customers could not use state law to challenge prices in allegedly manipulated wholesale markets. Previously the Pillsbury team defeated state law claims challenging wholesale prices in California’s energy markets on Filed Rate Doctrine grounds.

Judge Pro had previously denied the defendants’ motion with regard to FERC’s jurisdiction. But in response to a motion spearheaded by the Pillsbury team, he reconsidered that decision, concluding that the plaintiffs’ state law claims would be barred if the defendants proved they were subject to FERC’s jurisdiction and that the alleged misconduct would have affected FERC jurisdictional rates.

Following Pillsbury’s oral argument on behalf of the 10 energy company defendants, Judge Pro issued his 2011 order dismissing all state claims that comprised the multidistrict litigation. Included among these cases were putative class actions in Wisconsin, Missouri, Kansas, Colorado and Michigan, together with independent actions in Kansas, Illinois and Wyoming.