



Jennifer L. Key

PARTNER

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Areas of Work

Electric Power, Energy, Energy Transition

Overview

Jennifer Key is an experienced first-chair lawyer who provides major electric utilities with advice and guidance on the complexities of Federal Energy Regulatory Commission (FERC) regulation, and ensures that FERC regulations are adopted and implemented in a manner that is fair and reasonable. Her acute understanding of the intersection of state and federal jurisdiction enables her to successfully shepherd clients through the process of challenging both states and the FERC as necessary, where jurisdictional boundaries are crossed. Jennifer advises her clients in administrative litigation, transactional matters, and compliance matters, particularly with regard to transmission, interconnection, the Public Utilities Regulatory Policies Act (PURPA), wholesale distribution, and FERC filing requirements. She also provides antitrust counseling to utilities.

As a complement to her practice, Jennifer shares her knowledge and talents in furtherance of the industry, serving as both an author of and contributor to the *Annual Electricity Report* for the Public Utility, Transportation, and Communications Law Section of the American Bar Association. She also is on the Electricity Committee of the Energy Bar Association.

Bar & Court Admissions

- District of Columbia
- US Court of Appeals, District of Columbia

Education

- J.D., The George Washington University Law School, 1991, with honors, Member, *George Washington Journal of International Law and Economics*
- B.A., Dartmouth College, 1986, *cum laude*

Representative Matters

- Providing legal advice to utilities on whether aspects of state efforts to reform their approach to the regulation of distribution acknowledge and respect federal jurisdiction, in order to ensure utilities eliminate risks of non-compliance with FERC regulation.
- Dealing with challenges surrounding the implementation of FERC's Order No. 1000 raised in regional planning stakeholder processes.
- Responding to and asserting challenges with regards to whether state-adopted programs are PURPA-compliant.
- Drafting comments and attending technical conferences to ensure FERC's Data Collection Notice of Proposed Rulemaking (NOPR) does not place undue burdens on utilities and that any Final Rule reflects reasoned decision-making.
- Identifying issues relating to the aggregation of distributed resources and storage for participation in wholesale markets on behalf of utility clients.
- Represented a utility facing a Department of Justice investigation into alleged monopolization. The investigation has not resulted in any action being taken against utility.
- Addressing compliance issues with FERC filing and Electric Quarterly Report requirements.

Speaking Engagements

- "FERC versus State Jurisdiction: Drawing Lines is Serious Fun," Southern California Edison Company, May 6, 2016

News & Publications

CLIENT ALERTS

FERC's New PURPA Rules Upheld, NEPA Issue Remanded

September 11, 2023

By: Jennifer L. Key, William M. Keyser, Chris D. Zentz, Joe Bower

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

Oh Dear! Does Whitetail Spell the End of Reactive Power Rates for DERs in PJM?

September 9, 2023

By: Jennifer L. Key

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

FERC's PURPA Reform Rule Survives Judicial Review Intact, Subject to an Environmental Assessment, as the Majority of the Ninth Circuit Panel Continues to Embrace Chevron Deference

September 6, 2023

By: Jennifer L. Key

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

Is PURPA Relevant to Non-PUPRA State Procurement Mandates? Presumably Not, But There Is a Lesson To Be Learned From the Recent Allco Challenge

August 16, 2023

By: Jennifer L. Key

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

Mandatory and Not So Mandatory Wholesale Purchases at State-Set Rates: Allco Leans In

August 14, 2023

By: Jennifer L. Key

PRESS RELEASES

Step toe Receives 25 Practice, 72 Individual Mentions in Chambers USA 2023

June 1, 2023

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

Key Takeaways from Orders on PJM and ISO-NE Order No. 2222 Compliance Filings

March 19, 2023

By: Jennifer L. Key

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

FERC's "Broad View" of QFs Is Accepted by the Majority of D.C. Circuit Panel, as Chevron Deference Takes Center Stage in a Debate that Belongs Before Congress

February 24, 2023

By: Jennifer L. Key

PRESS RELEASES

Step toe Receives 16 Practice, 40 Individual Mentions in *Chambers Global* 2023

February 21, 2023

PURPA AND DISTRIBUTED ENERGY RESOURCES BLOG

The Price of DER Aggregations and the Aggregated Impacts of DERs – How, to Whom, and By Whom, Costs Will Be Allocated All Remain Unclear

January 8, 2023

By: Jennifer L. Key

Noteworthy

- *Chambers USA*, Energy: Electricity – Regulatory & Litigation, Nationwide (2020-2023)
- *Legal 500 US*, Energy: Litigation (2017-2019)
- *Legal 500 US*, Energy: Regulatory (2016-2017)

Professional Affiliations

- Energy Bar Association