

**McGuireWoods**

**ENERGY ENFORCEMENT**



## ENERGY ENFORCEMENT



The energy sector is arguably the most important sector of our economy and the most critical of our infrastructures.

Implicating security, safety, and environmental concerns, as well as “pocketbook” issues, it garners regular and robust government scrutiny. There are multiple “cops on the beat”: FERC, CFTC, DOJ, trading platform disciplinary programs and state regulators.

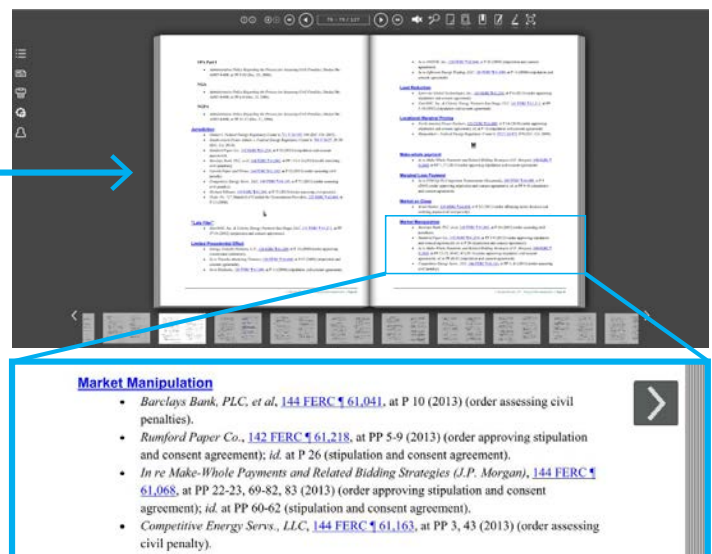
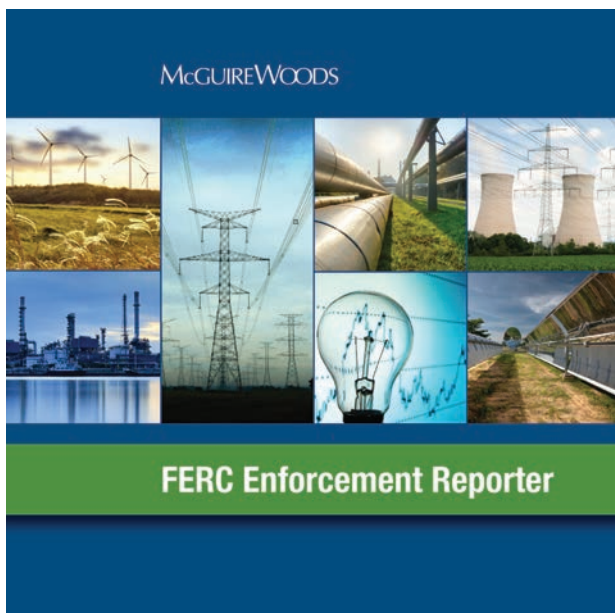
The stakes are high with Million dollar per day, per violation penalties on the line as well as trading bans and possibly criminal charges. The inquiries and investigations move quickly. Subjects don’t have time for their lawyers to “get up to speed” on the very specialized trading activities and regulator approaches. They need lawyers who do this work every day. That is McGuireWoods’ energy enforcement practice.

We understand the industry, the trading, the products, and the platforms. We know how to look at complex data sets that tell the real story of our client’s conduct. We speak the language of energy – we know what the jargon in the e-mails and the IMs means. Many law firms will tell you they can do energy enforcement, but we are one of a hand full of firms that do it every day.

## ABOUT OUR TEAM

The Energy Enforcement team at McGuireWoods is rooted in an elite Government Investigations and White Collar Litigation Department that was recognized as a Law360 Practice Group of the Year. We also leverage the capabilities of our broader firm-wide Energy team, including more than 100 interdisciplinary lawyers, who have been serving a broad spectrum of energy clients for nearly 50 years. We also represent about 30% of the nation's utilities. We represent many of the top commodity trading houses and financial institutions. The firm has earned nationwide ranking for its energy regulatory and litigation work in Chambers USA's guide.

The team includes a former top enforcement official at FERC who led some of the most high profile cases that agency brought in recent years as well as multiple partners and associates with direct experience in energy enforcement at the agencies and in the courts. The team is also diverse – including several women and lawyers of color who are actually experienced in energy enforcement. The expertise of our team was recognized when we were recently called upon by the Edison Electric Institute to completely redesign its on-line member training on Anti-Market Manipulation Rules. We literally “wrote the book” in the form of our unique, *FERC Enforcement Reporter* found here: <https://news.mcguirewoods.net/20/96/landing-pages/ferc-enforcement-reporter-access.asp>



We are shaping the practice of energy regulation.

In 2015, McGuireWoods launched an innovative, web-based legal resource for researching FERC enforcement cases. This free resource – called the FERC Enforcement Reporter – **catalogues enforcement actions taken since 2005.**

**More than 200 representatives** from utilities, energy companies, government agencies, law firms, think tanks and lobbying groups have requested copies of this resource.



## HOW WE HELP

Our attorneys are experienced in assisting numerous clients with investigation responses, as well as less formal audits and inquiries plus everyday internal compliance. McGuireWoods is well-positioned to assist clients with the following:

Direct FERC and CFTC Enforcement Defense

Electric Reliability Matters

External Audit Response

Internal Investigations

Prosecution or Defense of Complaints at FERC

Related Litigation

Electric Reliability Compliance Counseling

Self-Report Evaluation & Execution

No Action Letter & Other Guidance Requests

Informal Complaints to FERC Staff

General Energy Compliance Program Design & Counseling



## REPRESENTATIVE MATTERS

- We have represented clients in **more than twenty** different FERC or CFTC **non-public** investigations in the last five years, most of which closed with no action or settled favorably.
- We have privately counseled more than a dozen clients on major compliance issues that did not result in enforcement.

Some of the **public** matters we have handled include:

- Representation of Dan Brin and Scott Connelly, two energy traders formerly with Barclays, in a FERC investigation of manipulation of Western US energy markets. They were accused of scheming to trade day-ahead fixed-price electricity to boost their financial swap positions. The case settled - without our clients paying any penalty, incurring any trading restrictions or making any admissions - after a California federal judge refused to confirm the \$453 million FERC penalty. **The case was one of first impression on many fronts and was widely watched. It was named by Law360 as one of the “4 biggest energy cases of 2015.”**
- Representation of PSEG Energy Resources & Trade LLC in the resolution of what could have been a \$100 million-plus enforcement matter relating to PSEG’s electricity offers into the mid-Atlantic-based PJM energy market. **The settlement resolved all issues for PSEG, with no admission of violations, for a total payment of \$39.4 million.**
- Representation of utility clients in two of the three FERC reliability Inquiries that have followed major grid events.
- Representation of City Power Marketing in FERC enforcement litigation in federal district court alleging manipulation of the PJM markets. The case settled with no admission of liability and a substantially reduced penalty and a payment plan that took into account the financial circumstances of the company. **This case mattered to the industry because it was one of several cases testing the limits of what FERC views as market manipulation and it tested the unique procedural step of seeking “de novo review” of the Commission’s determination in federal court.**
- Representation of Dynasty Power and its owner Allan Cho in a FERC investigation involving alleged violations of FERC’s anti-manipulation rule.
- Representation of energy trader Michael Whalen in connection with a FERC Investigation involving Vista Energy Marketing.

## KEY CONTACT



**TODD MULLINS**  
**PARTNER**

+1 202 857 1752

[tmullins@mcguirewoods.com](mailto:tmullins@mcguirewoods.com)

Co-Chair, Power Sector Team

---

## GOVERNMENT INVESTIGATIONS AND WHITE COLLAR LITIGATION DEPARTMENT

Our Government Investigations & White-Collar (GIWC) Litigation department is truly a premier national practice, comprised of former government prosecutors and enforcement officials from the highest levels of government that reaches from coast to coast. Our GIWC practice is strategically located in nine cities, from Los Angeles to New York, with half of our practice located in Washington, DC. In addition to matters our group originates, our other practice areas and industry teams regularly call upon our experience to handle firm clients' most sensitive matters.

Named a "2019 White-Collar Firm of the Year" by *Law360*, one need look no further than the national headlines to find the matters corporate clients, individuals and elected officials entrust McGuireWoods' GIWC attorneys to lead. From a major aviation company DOJ investigation to the Mueller probe and from the Deepwater Horizon tragedy to highly sensitive internal investigations across industries, clients trust us when their reputations are on the line.

**For more information about the breadth of the capabilities of the Government Investigations & White Collar Litigation Department, please contact department chair Jason H. Cowley at [jcowley@mcguirewoods.com](mailto:jcowley@mcguirewoods.com) or at +1 704 343 2030.**

---

## ABOUT MCGUIREWOODS

McGuireWoods LLP is a leading international law firm with 1,100 lawyers in 21 offices worldwide. It continuously ranks among the top firms in *Financial Times*' prestigious North America Innovative Lawyers report. The firm has been recognized 14 times on BTI Consulting's Client Service A-Team — elite firms singled out for client service excellence based on unprompted feedback from clients in major companies. Its full-service public affairs arm, McGuireWoods Consulting LLC, offers infrastructure and economic development, strategic communications and grassroots advocacy, and government relations solutions. For more information, visit [www.mcguirewoods.com](http://www.mcguirewoods.com).

## ENERGY ENFORCEMENT TEAM



**TODD MULLINS**  
**PARTNER**  
+1 202 857 1752  
tmullins@mcguirewoods.com



**J. PATRICK ROWAN**  
**PARTNER**  
+1 202 857 1758  
prowan@mcguirewoods.com



**ALEX J. BRACKETT**  
**PARTNER**  
+1 804 775 4749  
abrackett@mcguirewoods.com



**AARON F. JAROFF**  
**PARTNER**  
+1 212 548 2133  
ajaroff@mcguirewoods.com



**KATLYN A. DAVIS FARRELL**  
**ASSOCIATE**  
+1 202 857 1735  
kfarrell@mcguirewoods.com



**EMILY SONG**  
**ASSOCIATE**  
+1 202 857 2484  
esong@mcguirewoods.com

**Nationwide highly regarded  
ranking for Corporate Crime &  
Investigations**

**CHAMBERS**  
AND PARTNERS

**Named a Practice Group of the Year**

**LAW360**

**Named to the “Client Service  
A-Team”**

**B T I**  
CONSULTING GROUP

**Multiple partners named “White Collar,  
Regulatory & Compliance Trailblazers”**

THE NATIONAL  
**LAW JOURNAL**

**Ranked among the world’s top 100  
firms for five consecutive years for  
our “heavyweight team of white-collar  
investigators that bring decades of  
high-stakes work experience.”**

**GIR**  
Global Investigations Review

**Multiple government investigations  
partners named “Lawyers of the Year”**

**Best Lawyers**

**One of the “Most Recommended Law  
Firms” 17 years in a row, a distinction  
shared with only 9 other firms**

**B T I**  
CONSULTING GROUP

**Nationwide ranking for corporate investigations and  
white collar criminal defense**

*The*  
**LEGAL  
500**

**McGuireWoods**

1,100 lawyers | 21 offices | [www.mcguirewoods.com](http://www.mcguirewoods.com)

Atlanta • Austin • Baltimore • Charlotte • Charlottesville • Chicago • Dallas • Jacksonville • Houston • London •  
Los Angeles - Century City • Los Angeles - Downtown • New York • Norfolk • Pittsburgh • Raleigh •  
Richmond • San Francisco • Shanghai • Tysons • Washington, D.C.