

5th Annual Oil & Gas Pipeline Regulatory Group Top 10 Matters – 2023

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2023 Year in Review

We are grateful for the opportunities that our clients have presented to us and the successes we have helped our clients achieve over the past year, and we look forward to the new challenges in the year ahead that we will tackle together. In 2023, we handled exciting and noteworthy projects for industry leaders such as Colonial Pipeline, DT Midstream, Enbridge, Enterprise, Kinder Morgan, Phillips 66, Tallgrass Energy, Targa Resources, and TC Energy, among others. We also represented the foremost industry trade group associations on key issues, including the Liquid Energy Pipeline Association, the Interstate Natural Gas Association of America, and the American Petroleum Institute. Over the course of the last year, we have assisted our clients with a wide array of new infrastructure projects, extensive litigation before federal agencies and courts, important policy proceedings, numerous investigations, and substantial transactions. In addition to advising on oil and gas matters, we continue to represent our clients on opportunities and projects related to carbon capture and sequestration, hydrogen, and other aspects of the energy transition.

Adding to our list of 2023 highlights, we welcomed Partner **Eugene Elrod**, a highly respected member of the oil and gas regulatory bar and ranked Band 1 by *Chambers USA* for Energy: Oil & Gas (Regulatory & Litigation), to our team in our Washington, DC office. We also welcomed Associate **Samuel Lombardo**, previously a trial attorney at FERC's Office of Administrative Litigation, to our team in Washington, DC.

Our top 10 matters in 2023 were:

1. Settling Cases Initiated by FERC: Settlement of Stagecoach Section 5 Rate Investigation

Kinder Morgan — we represented Stagecoach Pipeline & Storage Company in the rate investigation that the FERC initiated pursuant to Section 5 of the Natural Gas Act. This was only the fourth Section 5 case initiated by FERC since 2018 and second Section 5 case we have handled for a pipeline in the last two years. After extensive negotiations with FERC Staff and its customers over a period of months, Stagecoach filed an uncontested settlement on May 1, 2023. The settlement includes a rate moratorium through December 31, 2026. FERC approved the settlement in an order issued on July 13, 2023.

2. Expanding Pipeline Infrastructure: New Natural Gas Pipeline Project

Kinder Morgan — we are currently representing Kinder Morgan subsidiary Wyoming Interstate Company, L.L.C. in connection with its request for authorization pursuant to Section 7 of the Natural Gas Act to lease 300,000 dekatherms per day of capacity on the Northern Border Pipeline Company, Bison Pipeline LLC and Fort Union Gas Gathering, L.L.C. systems. The authorizations requested will create a new seamless transportation path on WIC across four pipeline systems, facilitating a new outlet for natural gas from the Bakken. The applications seeking approval of this new pipeline project were filed in September of 2023 and are currently pending before FERC.

3. Getting Ready to Try Cases: Preparing for Oil Pipeline Rate Case

Phillips 66 Pipeline — we are leading the litigation effort, advising on strategic issues and coordinating case response and strategy for P66 Pipeline in consolidated rate cases. P66 Pipeline owns and operates multiple liquids pipelines across the United States, including the Blue Line, which transports propane and butane in the Midwest. In late 2021, P66 Pipeline filed at FERC to increase its rates to recover the significant capital costs expended to modernize its pipeline. The rate increase filing was protested by two entities, NGL Supply Wholesale and MFA Oil Company. P66 Pipeline filed a second rate case in December 2022, referred to as a pancaked rate case, on top of the first case still pending. This second case reflected additional capital costs associated with the pipeline integrity work that gave rise to the first rate case as well as lower volumes. Again, NGL/MFA protested. Throughout 2023, we were engaged in hearing preparation, including assisting our client with pre-filed testimony, engaging in extensive discovery, and related pre-hearing work. The case is expected to go to hearing in early 2024 with extensive ongoing work through then.

4. Protecting Our Clients Information: Reversal of FOIA Action

Sunoco Pipeline LP — we achieved a favorable ruling for Sunoco in a rare reverse FOIA action related to the protection of highly confidential and sensitive security risk consequence modeling data. Our preeminent pipeline safety team secured an

overall favorable ruling from the US District Court for the District of Columbia, after the court denied the government's motion seeking to dismiss a challenge to the Pipeline and Hazardous Materials Safety Administration's decision to release the information. The litigation involves key FOIA exemptions pertaining to confidential business and sensitive security information and will have industry-wide impacts on the types of information that can be protected from public disclosure. The matter has since been remanded back to the agency. *Sunoco Pipeline L.P. v. U.S. Dep't of Transportation*, No. 1:21-CV-01760 (D.D.C.).

5. Expanding Pipeline Infrastructure: Defending Natural Gas Pipeline Expansion Projects

TC Energy — we successfully defended Gas Transmission Northwest LLC against a challenge filed by the States of California, Oregon and Washington at FERC seeking to deny an important expansion of the GTN's interstate natural gas pipeline system. The expansion project, known as GTN Xpress, will facilitate the transportation of approximately 150 Mcf/d of incremental natural gas to the Pacific Northwest once it is completed. We also successfully defended GTN in another proceeding at FERC in which the Columbia Riverkeeper sought rehearing of an order approving GTN's construction of a new compressor station.

6. Settling Cases, Before and After They Are Filed: Natural Gas Rate Case Settlements

TC Energy — we represented Tuscarora Gas Transmission Company in preparing, filing, and litigating a rate case before FERC. We prepared and then filed the pipeline's case in July 2022, and then took the company through the process of FERC trial staff and intervenor discovery through fall 2022. In parallel, we represented the company in the settlement negotiation process before a settlement judge. Our settlement discussions proceeded from October 2022 to March 2023, culminating in a settlement in principle with staff and the intervenors. We prepared an uncontested settlement stipulation and agreement that was filed with the presiding judge for certification on March 24, 2023. The request for certification was approved, settling the case for an agreed upon moratorium period that lasts until December 2028.

Tallgrass Energy Partners — we represented Tallgrass Interstate Gas Transmission LLC in connection with its negotiation and filing of an uncontested rate case settlement agreement at FERC before a formal rate case filing was required. TIGT initiated discussions with its customers in early 2023 and established an informal discovery process in connection with its efforts to reach

a settlement agreement with its customers. A settlement in principle was reached in the fall and was filed at FERC on November 17, 2023. The settlement agreement implements a rate increase that was achieved without litigation and includes a rate moratorium through May 31, 2027. FERC issued an order approving the settlement agreement on December 28, 2023.

7. Facilitating the Energy Transition: Natural Gas Pipeline Abandonment and Conversion to CO₂ Service

Tallgrass Energy Partners — we represented Trailblazer Pipeline Company and Rockies Express Pipeline Company in connection with a new project that will involve Trailblazer converting a large portion of its system from natural gas service to carbon dioxide service. As part of the project, Trailblazer will lease capacity from Rockies Express, thereby allowing Trailblazer's customers to use the leased capacity on Rockies Express to obtain the service they previously obtained on the portion of the Trailblazer system that will be converted to carbon dioxide service. The project also involves the construction of new pipeline facilities and we continue to advise Tallgrass on pipeline safety issues in connection with these and other projects, including those involving RNG. FERC granted the abandonment application in October 2023, and we continue to represent the company in all aspects of the regulatory and commercial processes to effectuate the conversion from natural gas service to carbon dioxide service, including the negotiation and execution of multiple carbon offtake agreements in 2023 that underpin the project.

8. Trying Cases Initiated by FERC: Completed Evidentiary Hearing in Oil Pipeline Matter

Targa Resources — we are currently representing Targa in an ongoing and closely watched FERC investigation and hearing regarding Targa's Badlands crude oil pipeline system in North Dakota and the Interstate Commerce Act waivers under which it currently operates. In December 2022, FERC ordered an investigation and hearing into Targa's waivers that has potentially significant implications for the oil pipeline industry with respect to FERC's ICA waiver policy. Throughout 2023 we engaged in extensive discovery and motions practice on behalf of Targa in this proceeding, culminating in November with a two-week evidentiary hearing before the presiding FERC Administrative Law Judge. An initial decision is expected in spring 2024, with a FERC order on that decision expected thereafter.

9. Defending Our Clients: FERC and CFTC Investigations

Numerous Pipeline and Natural Gas Marketing Clients — we continued to represent clients in non-public inquiries by FERC, the Commodity Futures Trading Commission, and a futures exchange related to price volatility and supply interruptions in natural gas markets. In 2023, these included assisting clients with agency inquiries related to Winter Storm Elliott and the Winter 2022/2023 Western Energy Price Spike in natural gas as well as two exchange inquiries involving natural gas contracts.

10. Further Facilitating the Energy Transition: Active Involvement in Confidential CCUS and RNG Pipeline Safety Projects

Numerous Pipeline Clients — our pipeline safety team is actively advising clients on confidential carbon capture, utilization and storage and renewable natural gas projects across the country, many of which involve novel jurisdictional and strategic considerations as applicable laws and regulations continue to evolve.



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CHAMBERS USA

Ranked Bracewell's Oil & Gas Regulatory Practice as Band 1 for the 9th consecutive year.

A leading firm with highly impressive expertise across the energy arena, particularly esteemed for its ability within the oil and gas regulatory space. Offers excellent capability in FERC and CFTC investigations, as well as representation of pipeline clients in FERC rate, tariff and jurisdictional matters.

"Bracewell are true experts in their area, highly responsive and creatively think through solutions to problems."

– Chambers USA 2023

THE LEGAL 500

Ranked Bracewell's Oil & Gas Regulatory Practice as Tier 1 for the 7th consecutive year.

Bracewell LLP handles a mix of transactional and standalone regulatory work in the oil and gas field, covering the full spectrum of upstream, midstream and downstream mandates. The team is at the forefront of pipeline infrastructure work and is experienced in issues involving both oil and gas pipelines. Senior team members frequently represent clients before the Federal Energy Regulatory Commission (FERC), Department of Energy (DoE), the Commodity Futures Trading Commission (CFTC), and other state and federal regulatory agencies.

"Industry experts in energy regulation. Always find time for their clients."

– Legal 500 2023

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