

Counsel, Washington, D.C.

Energy Regulation and Litigation



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Education

J.D., George Washington University
School of Law, 1996

B.A., Boston College, 1990

Bar Admissions

New York

District of Columbia

U.S. Courts of Appeals for the District
of Columbia and Fifth Circuits

U.S. District Courts for the District
of Columbia and Southern District
of New York

Experience

Law Clerk, Hon. Daniel T.K. Hurley, U.S.
District Court for the Southern District
of Florida (1998-1999)

Honors

U.S. District Court for the District of
Columbia's Daniel M. Gribbon Pro Bono
Advocacy Award, 2007

The Florida Bar Association
Out-of-State Division Pro Bono
Service Recognition Award, 2007

Donna Byrne's practice focuses on representing electric power and natural gas market participants in proceedings before the Federal Energy Regulatory Commission (FERC) and in appeals of FERC orders in the United States courts of appeals. Ms. Byrne has represented clients in numerous FERC enforcement investigations involving alleged market manipulation, as well as alleged violations of reliability standards. She has represented clients in complex contract litigation and other commercial disputes, including litigation arising out of the California energy crisis and issues related to Regional Transmission Organization withdrawal. Her practice also includes counseling clients on FERC regulatory issues and evaluating and developing their FERC compliance programs. She has counseled numerous clients on issues related to qualifying facilities under the Public Utility Regulatory Policies Act. Ms. Byrne also has represented clients in federal district court litigation of FERC civil penalty claims.

Ms. Byrne has been selected for inclusion in *Chambers USA*. She also serves as the president of the Charitable Foundation of the Energy Bar Association, and she has been a member of the board of directors since 2015.

Ms. Byrne has been actively involved in *pro bono* matters throughout her career, dedicating substantial time and effort to serving the diverse legal needs of the indigent.

Representative matters include:

- representing NextEra in its acquisition of Gulf Power from Southern Companies;
- representing defendants in a FERC civil penalty assessment action currently pending in federal district court in the Eastern District of Virginia;
- representing clients in a number of pending nonpublic FERC enforcement investigations involving issues including compliance with NERC reliability standards and federal statutes and other issues;
- successfully represented developer in seeking declaratory order on Federal Power Act Waiver issues;
- filed a successful petition for declaratory order on behalf of PJM and secured a FERC order vindicating enforceability of tort liability limitation under attack from civil tort litigant;
- represented Deutsche Bank in a FERC show cause order proceeding arising from enforcement investigation and negotiated settlement resolving investigation;
- led trial team for FirstEnergy Service Company in FERC administrative litigation involving the alleged liability of a withdrawing transmission owner regarding multi-value project charges involving Midwest Independent Transmission System Operator, Inc.;
- successfully defended FirstEnergy Corp. in a complaint proceeding alleging miscellaneous violations associated with capacity auctions and market-based rate authorization, and obtained order denying complaint and declining to initiate enforcement investigation;
- represented a merchant transmission project as intervenor in appeal resulting in an order affirming favorable FERC decision;
- successfully represented Colstrip Energy Limited Partnership in contested qualifying facilities (QF) proceeding involving waste "rib" coal; FERC granted recertification and rejected challenge to QF status;

Donna M. Byrne

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- successfully defended Colstrip Energy Limited Partnership in matter challenging QF status based on ownership criteria;
 - successfully defended Portland General Electric Co. in a complaint proceeding resulting in an order dismissing the complaint on jurisdictional grounds;
 - successfully represented major auditing firm in a *qui tam* action alleging FCA violations related to the firm's association with Enron; the court granted the dismissal for failure to state a claim;
 - successfully represented a death row inmate in a *pro bono* case; the court directed the state of Texas to vacate the death sentence or conduct a new constitutionally permissible sentencing proceeding;
 - represented Dynegy and NRG in the "California Long-Term Contract Case," and
 - representing Aquila and Illinova in the "California Refund Case."