

CONTACT

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PRACTICES

Cybersecurity & Emerging
Technologies
Electric
Renewable Energy

EDUCATION

Gonzaga University School of Law
University of Washington

BAR AND COURT ADMISSIONS

Washington State Bar
U.S. Court of Appeals for the
Ninth Circuit
U.S. Court of Appeals for the
District of Columbia Circuit
U.S. District Court for the Eastern
District of Washington
U.S. District Court for the Western
District of Washington

MALCOLM C. MCLELLAN

PARTNER



Professional Background

Malcolm's practice focuses on the transmission, generation, marketing, and distribution of electric energy. Malcolm has an intricate knowledge of the technical, legal, and business considerations facing electric utilities. His counseling includes electric transmission and ancillary services, rates, reliability standards, enforcement actions and investigations, market based rate authority, and hydroelectric licenses. His transactional experience includes power purchases and sales, interconnection and transmission access, and asset sales.

Representative Experience

Electric Transmission

- Guides transmission providers manage their Open Access Transmission Tariff, business practices, rate and service schedules, and grandfathered agreements
- Counsels on rate issues for existing facilities and new construction
- Negotiates agreements for transmission service, generator interconnection, transmission-to-transmission interconnection, ancillary services, and balancing authority areas
- Guided the negotiation, development and regulatory approval of Ace Diversity Interchange - a tool through which electric balancing authorities share the management of area control error
- Worked on the development of multiple regional transmission organizations
- Worked on the development and operations of regional and interregional transmission planning for NorthernGrid and Northern Tier Transmission Group in the northern portion of the Western Interconnection

Enforcement Proceedings

- Represents utilities in FERC investigations into transmission sales, transmission utilization, power marketing transactions, and sales into organized markets
- Represents NERC registered entities in alleged violations of mandatory electric reliability standards

Compliance Programs

- Experienced creating compliance programs, and corporate standards, policies and business practices
- Represents utilities seeking FERC No Action Letters and regulatory interpretations
- Counsels on Dodd Frank compliance, Standards of Conduct, and Interlocking Directors

Electric Reliability Standards

- Guides utilities on mandatory reliability standard compliance
- Assists utilities with decisions related to registration, deregistration and exemption
- Represent NERC registered entities with compliance audits and enforcement proceedings
- Negotiated the Reliability Management Agreement in the Western Interconnection – the first agreement by which electric utilities agreed to minimum electric reliability standards. The agreement became of the foundation of mandatory electric reliability standards that were enacted by Congress as part of the Energy Policy Act of 2005
- Developed and negotiated the Pacific Northwest Security Coordinator, an agreement among and between electric balancing authority in the Western Interconnection for their coordination and oversight

of electric balancing authorities

Power Marketing and Power Purchase Agreements

- Counsels on market based rate authority, Public Utility Regulatory Policies Act (PURPA), Qualifying Facility (QF), and Exempt Wholesale Generator (EWG) compliance
- Represents purchases and sellers in the negotiation of power purchase and sale agreements, electric storage agreements, transmission service agreements, and synthetic power purchase and sales agreements
- Experience working with the Western Systems Power Pool Agreement, EEI Master Services Agreement, and custom agreements
- Performs due diligence
- Work with the registration and trading of renewable energy credits

Electric Storage Projects

- Develop requests for proposals for various storage technologies and configurations, including battery storage projects and compressed air storage projects
- Manage the standards of conduct issues surrounding acquisition, interconnection, and transmission service for storage projects
- Manage new interconnections of storage resources, particularly where the storage acts primarily as a generation resource or as a transmission resource
- Manage modifications of existing interconnections to add storage (e.g., existing solar or wind facilities adding storage capability)
- Assist with offtake agreements for storage projects
- Evaluate charging and discharging options for storage projects, including assessing transmission rights and types of energy that may be used to charge storage projects, and assessing operational issues
- Negotiation and implementation of pseudo-ties for storage projects to move the project from the balancing authority area to which it is interconnected into another balancing authority area
- Manage the acquisition of transmission service for storage projects
- Worked on retail projects to encourage the use of storage on the distribution system

District Energy

- Structured the development of an agreement through which heat from data centers is used to heat office complexes

Hydroelectric

- Represents hydroelectric licensees obtain and comply with project licenses and associated permits
- Represents developers and owners of non-FERC jurisdictional hydroelectric projects

Awards and Honors

"Lawyer of the Year" by *Best Lawyers*

Energy Law, 2021

Legal 500 - Recommended Attorney

Energy Regulation - Conventional Power, 2019

"Best Lawyers in America" by *Best Lawyers*

Energy Law, 2012-2021

Energy Regulatory, 2019-2021

Environmental Law, 2013-2021

Articles and Presentations

- 21st Annual Mid-C Seminar, Wenatchee WA, 06/18/2017
- 2017 Electric Transmission in the West, Law Seminars International, Portland OR, 05/25/2017
- District Energy: What's Stopping Us from Sharing in the Sharing Economy?, Urban Land Institute, Seattle WA, 10/12/2016
- Oregon's Clean Electricity and Coal Transition Plan, Law Seminars International, Portland OR, 07/28/2016
- Resilient Energy Systems: District Energy and Microgrids, Second Nature Webinar, 05/26/2016
- Edison Electric Institute, 2016 Spring Legal Conference, Palm Beach FL, 05/20/2016
- Intro to Resilience and Energy Systems, Second Nature Webinar, 03/15/2016
- 13th Annual Higher Education Real Estate Lawyers Conference, University of Washington, Seattle WA, 10/01/2015
- Electric Transmission in the West, Law Seminars International, Portland OR, 05/07/2015
- US/Canada Cross Border Power Summit, EUCI, Boston MA, 04/08/2015
- Comprehensive Review of Hydropower in the Northwest, The Seminar Group, Seattle WA, 10/09/2014
- NIPPC Annual Meeting 2014 - Embracing Change: The Northwest Way, Northwest & Intermountain Power Producers Coalition, Union WA, 09/14/2014
- IDEA's 105th Annual Conference and Trade Show, International District Energy Association, Seattle WA, 06/08/2014
- 17th Annual Energy, Environment & Utility Conference, Sponsored by U.S. Dept of Energy, Edison Electric Institute, and Electric Power Research Institute, Phoenix AZ, 02/03/2014
- Northwest Hydro Association Fall Workshop, Portland OR, 11/17/2013
- 17th Annual Mid-C Seminar, Wenatchee WA, 07/16/2013
- New FERC Definition of Bulk Electric System, Law Seminars International, TeleBriefing, 01/23/2013
- 2012 Energy Bar Association Mid-Year Conference, Washington DC, 11/30/2012
- NIPPC Annual Meeting 2012, Northwest and Intermountain Power Producers Coalition, Union WA, 09/09/2012
- Energy Imbalance Market Concepts in the Western Interconnection, Portland OR, 08/21/2012
- Buying and Selling Electric Power in the West, Law Seminars International, Seattle WA, 01/27/2012
- Northwest Gas Association, Portland OR, 01/25/2012
- Renewable Energy in the Pacific Northwest, Law Seminars International, Seattle WA, 08/04/2011
- Maintaining a Balance: Innovation in Power System Balancing Authorities, Washington Journal of Environmental Law & Policy, Vol. 1 Issue 1 pp. 1, 07/01/2011
- Effective and Empowered Collaborative Institutions for Multi-State Decisions on Transmission Planning and Cost Allocation, 03/26/2010
- Power System Balancing Authority Innovation, 03/19/2010
- The Public Interest Jurisdictionally and Extra-Jurisdictionally: Toward Effective and Empowered Collaborative Institutions for Multistate Decisions on Transmission Planning and Cost Allocation, National Renewable Energy Laboratory Law Conference, 08/11/2009
- Power Administrations Seek Increased Role, North American Wind Power, 12/01/2008

Alerts

- FERC Applies Order No. 773 to Exempt "Facilities Used in Local Distribution" from Mandatory Electric

Reliability Standards, 01/08/2016

- D.C. Circuit Denies Order No. 1000 Appeals, Upholds FERC's Vision for Transmission Planning and Cost Allocation, 08/18/2014
- New and Emerging Developments in California's Cap-and-Trade Program Will Have Significant Impacts on Western Power Markets, 01/14/2014