

Energy

Miller Canfield attorneys represent public utility and energy clients in every phase of providing electric, natural gas, and pipeline services.

Utility, Energy and Telecommunications

We serve utility clients ranging from large gas and electric utilities to small providers. The scope of services we provide includes:

- All matters involving the Michigan Public Service Commission's regulation of public utilities;
- Advising and representing clients in complex rate making, tariff and service issues;
- Meeting reliability, renewable energy and energy efficiency standards;
- Obtaining required approvals for mergers, acquisitions and sales of jurisdictional regulated utilities and assets;
- Gas and power supply cost reviews and cost recovery;
- Providing representation and advice in franchise, siting condemnation and certification proceedings for natural gas storage facilities and pipelines and electric transmission lines and generation and distribution facilities.
- Rate case and other regulatory compliance litigation;
- Formation of utilities and holding companies;
- Certificates of Public Convenience and Necessity;
- Siting and environmental permitting;
- Rulemaking proceedings and waiver requests;
- Litigation and appellate representation in state and federal courts;
- Diversification into unregulated business;
- Representation of alternate electric service providers;
- Power Purchase Agreements;
- Gas purchase contracts; and
- Legislative advocacy and lobbying

Oil and Gas

From exploration to litigation, Miller Canfield's global team of lawyers in North America and Europe represents oil and gas clients in lease transactions and litigation, up- and downstream distribution matters and complex oil spill litigation. Our clients in the U.S. include companies engaged in shale oil extraction, mining enterprises, refineries, landowners, as

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well as wholesale and retail distributors. Our legal experience includes environmental, permitting and other government regulations, litigation, licensing, distribution, contracts and more.

Renewable Energy Development and Finance

Miller Canfield's multidisciplinary Renewable Energy Development and Finance Team works with clients across the spectrum of needs—our experience in both the private and public sectors includes all aspects of the due diligence, negotiation, structuring, and execution of both project and financing documentation as well as navigating the myriad of regulatory, real estate, environmental, and tax issues. We represent a variety of stakeholders, including utility companies, investors and lenders, developers, and public entities such as municipalities, schools and universities. Through our experience, we have developed effective and efficient processes for the staffing, management and reporting of these complex and time-sensitive transactions. **See more>>**

Representative Matters

Utility, Energy and Telecommunications

- Lead counsel in \$270 million arbitration representing Michigan's largest public utility in power purchase agreement dispute centered on utility accounting and methodologies, including avoided costs distinctions, capitalization, discount rates, health care and post-employment benefits, FERC Form 1 and MPSC P-521 accounting, PURPA and other regulatory implications.
- Successfully represented large utility in multi-million-dollar transmission, metering agreement and electric line loss dispute involving interpretation of MISO tariffs and FERC regulations.
- Obtained dismissal for Michigan's largest public energy company in overriding royalty dispute concerning allegations of breach of fiduciary duty, alter ego, fraudulent drainage and lack of unitization of a gas field.
- Successfully represented leading North American energy producer in defense of state criminal antitrust claims that were resolved without any criminal conviction.
- Represented an energy company that leased significant natural gas rights to another energy company that filed for Chapter 11 bankruptcy protection. At stake was almost \$2 million in back royalty payments under the lease. The court held that under Michigan law, the oil and gas lease was indeed a lease under the Bankruptcy Code, entitling the client to all past due royalty payments before the debtor could continue extracting natural gas.
- Represented landowners of hydrocarbon-producing acreage in renegotiating lease terms, bonuses, shut-in and defined use provisions.
- Assisted an electric utility to obtain a New Source Review construction permit for a \$2 billion coal-fired power plant and defended the permit against citizen suits. Also assisted utility in obtaining multiple local, state, federal permits involving wetlands, floodplains, private and county drains, floodplains, endangered and threatened species, and navigable waters for the plant.
- Represented an applicant energy client in the successful certification of a 60-mile 138 kV electric transmission line with completion of the case within three months of its initiation before the Michigan Public Service Commission.

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Oil and Gas

- Defended major oil company in a dispute concerning royalty payments relative to natural gas and condensate production spanning a number of years. Obtained federal court dismissal of the action.
- Successfully prosecuted multi-million-dollar claims of large petroleum company for breach of contract, warehouseman's liability and account stated arising from asphalt storage tank failure.
- Persuaded federal court to dismiss Petroleum Marketing Practices Act (PMPA) claims and obtained summary judgment in state court on breach of contract counterclaim.
- Represented large oil pipeline in prosecuting claims of breach of contract and violations of the Uniform Commercial Code in relation to faulty additives manufactured by defendant.
- Successfully defended major oil companies in complex litigation matters concerning upstream oil and gas production involving application of foreign and state laws; putative class action involving allegations of underground storage tank leaks and related groundwater contamination; and putative class action concerning nuisance and negligence allegations arising from an explosion at a refinery.
- Obtained a dismissal on behalf of an energy exploration and natural gas processing company in an action with allegations of nuisance stemming from emissions at a gas processing facility.
- Issued tax opinions used in private placement memorandums in connection with the tax treatment of oil and gas royalty interests under like-kind exchange provisions of the Internal Revenue Code.

Renewable Energy Development and Finance

- Counsel on multiple wind energy development projects on behalf of lenders, investors and a major utility company developer/acquirer, including representation of various utility companies in the acquisition of wind energy projects, some in excess of \$150 million, and the development of several new wind energy projects.
- Represented a multinational mobility company with respect to a 90,000-square-foot solar panel lease and power purchase agreement for its manufacturing facility.
- Negotiation of a first-of-its-kind-in-Michigan solar lease agreement between a public school district and a solar energy developer. The transaction allowed the developer to design, build, finance, operate and maintain solar arrays on-site at several schools throughout the district. The schools then agreed to purchase the renewable energy generated at a reduced rate, estimated to save the district \$45,000 annually.
- Counsel to universities' solar farm projects, which were built, owned and operated by third-party investors and developer, with the universities purchasing all of the output.
- Underwriter's counsel for a large energy efficiency financing for the State of Delaware through a state-owned utility created for this purpose, in which improvements were made and paid for by private parties, which were repaid from energy savings. At the time, it was a novel approach to sustainable energy development and was the first pooled sustainable energy project in the United States.