



Seth D. Hilton

Partner

San Francisco, CA P: [415.617.8943](tel:415.617.8943)

✉ seth.hilton@stoel.com

Industries Serviced

Corporate & Industrial Energy Management

Energy & Infrastructure

Energy Transmission

Independent Power Producers

Renewable Energy

Service Areas

Appellate Law

Class Action Defense

Corporate & Industrial Energy Management Solutions

Energy & Regulatory

Energy Litigation

Independent Power Producer Solutions

Litigation

Bar Admissions

California

U.S. Court of Appeals for the Ninth Circuit

U.S. District Courts for the Northern, Central, Southern and Eastern Districts of California

Education

University of California, Davis, School of Law, J.D., 1995; Order of the Coif; Senior Articles Editor, U.C. Davis Law Review; Articles Editor,

ABOUT SETH

Seth Hilton is a partner in the Energy Development practice group. He focuses his practice on energy regulation and litigation, representing clients before a variety of energy regulatory agencies in California, including the California Public Utilities Commission and California Energy Commission, as well as in stakeholder proceedings at the California Independent System Operator. His clients include developers of thermal and renewable generation, energy storage developers, transmission developers, energy service providers, and investor-owned and publicly-owned utilities.

Seth also represents energy clients in state and federal court, and has significant experience in a wide variety of complex commercial litigation. That experience includes jury and bench trials as well as appellate matters, including successfully arguing before the Ninth Circuit Court of Appeals and the California Court of Appeal. Seth also has extensive experience in handling arbitration and mediation.

Following law school, Seth served as law clerk to the Honorable David V. Kenyon, United States District Court for the Central District of California. In 2003, Seth was appointed to serve on the California State Bar's Standing Committee on Federal Courts. Prior to joining the firm, Seth was an associate with Morrison & Foerster in the firm's Walnut Creek office.

EXPERIENCE

Regulatory Matters

California Public Utilities Commission

- Ongoing representation of independent energy developer in the Commission's Long Term Procurement Plan Proceedings.

- Represented energy storage developer in California Public Utilities Commission's proceeding to implement energy storage procurement targets pursuant to Assembly Bill 2514.
- Represented transmission developer and renewable energy developer in the Public Utilities Commission's proceeding to implement California's 33% Renewable Portfolio Standard.
- Ongoing representation of pipeline utility on rate and other tariff issues before the Public Utilities Commission.
- Advised acquiring entity concerning potential acquisition of large California water utility.
- Advised several renewable energy developers concerning the California Public Utilities Commission's consideration of tradable renewable energy credits (TREC's or REC's), including active participation in proceeding on behalf of one developer.
- Advised pipeline utility on sale of regulated assets and obtained approval for sale from California Public Utilities Commission.
- Represented municipal water utility before the California Public Utilities Commission in service territory dispute with neighboring utility.
- Advised several energy service providers concerning California regulatory matters and ongoing Commission proceedings.
- Represented wholesale electricity generators in Commission's rulemaking concerning enforcement of generator operation and maintenance standards adopted pursuant to Public Utilities Code § 761.3.
- Obtained exemptions from Pacific Gas and Electric Company surcharges for direct access customer.

California Energy Commission

- Ongoing representation of biomass generator on various issues associated with RPS certification and delivery of energy to California.
- Represented independent power producer in petition to modify California Energy Commission license to construct natural gas-fired power plant in southern California.
- Represented independent energy developer in Energy Commission's proceeding to implement California's 33% RPS for publicly-owned utilities.

Greenhouse Gas Regulation

- Advised municipal utility concerning implementation of California Global Warming Solutions Act of 2006 by the California Air Resources Board, California Energy Commission and California Public Utilities Commission.
- Advised municipal utilities concerning implementation of California's Emissions Performance Standard for greenhouse gas emissions from electric generation.

Other Regulatory Matters

- Advised municipal utility concerning transmission issues and service territory expansion.
- Advised electric generation developer concerning interconnections to distribution systems of Pacific Gas and Electric, San Diego Gas & Electric and Southern California Edison. Advised independent power producer concerning efforts to develop natural gas-fired generation in northern California, including permitting and interconnection and transmission issues.
- Represented energy storage developer in the California Independent System Operator Transmission Planning Process.

Energy Litigation

- Represented solar developer in litigation in San Francisco Superior Court concerning memorandum of understanding and loan agreement for the development of several solar projects in California.
- Represented wind generation operator and developer in litigation with windpark owner over operations and maintenance contracts, obtaining jury verdict in client's favor after month-long trial in Orange County Superior Court. Successfully defended judgment on subsequent appeal to Fourth District Court of Appeal.
- Represented biofuels company in dispute with former partner company, obtaining dismissal of partner company's complaint in the Central District of California.
- Represented a wholesale electricity generator in a dispute with the California Independent System Operator concerning interpretations of the ISO tariff and summer reliability agreements.
- Represented energy service providers and customers in disputes concerning direct access service contracts, including successful defense of \$69 million breach of contract claim filed against an energy service provider.
- Represented wholesale power providers in an interpleader action brought by the Colorado River Commission of Nevada concerning alleged breaches of retail power contracts by its retail customers.

Commercial Litigation

- Represented organic food company in breach of contract action with nursery in San Diego Superior Court, including successful defense at trial, and full recovery of attorney fees expended in the matter from the opposing party.
- Represented technology company in appeal from dismissal of securities class action in the Northern District of California, successfully arguing before a Ninth Circuit appellate panel that the dismissal should be affirmed.
- Represented franchisor in dispute with franchisee over breach of franchise agreement, obtaining favorable arbitration award at conclusion of binding arbitration.

HONORS & ACTIVITIES

- Appointed to the California State Bar's Standing Committee on Federal Courts (2003)
- Member, American Bar Association
- Member, Bar Association of San Francisco
- Member, Conference of California Public Utility Counsel
- Member, Power Association of Northern California

INSIGHTS & PRESENTATIONS

- Executive Exchange Chair; moderator, "Regionalization – What's Next for the Delivery of Renewables to Load Centers?," 10th Annual Transmission Summit West, Sept. 12-14, 2018
- Moderator, "Developing the Regulatory Framework to Support NWA Investments," Storage Week, Feb. 27-Mar. 1, 2018
- Moderator, "The Future of Gas in the Western US Amid the Goal toward Complete Renewables," Platts Western States Power and Gas Conference, Nov. 16-17, 2017
- Moderator, "Due Diligence: What to Look for in Evaluating Technologies and Warranties," Storage Week, Feb. 22-24, 2017
- Moderator, "CAISO EIM Expansion and the Movement toward Western Integration," Wind Power Finance & Investment Summit, Feb. 7-9, 2017
- Moderator, "Navigating the Intersection of EIM, ISO, and Bilateral Markets in the West," Platts Western States Power and Gas Conference, Nov. 29-30, 2016
- Panelist, "CAISO Expansion," Climate and Energy Law Symposium, Nov. 4, 2016
- Speaker, "The Federal and State Policy Backdrop for Energy Markets and Resource Development in California," Electric Power in California, Nov. 3, 2016
- Moderator, "Utility Procurements of Energy Storage—Lessons Learned and Future Procurements" Storage Week, Jan. 25-27, 2016
- Chair, California Energy Summit, May 28-30, 2014
- Chair, Power Industry Transformation Summit, April 2-3, 2014
- Workshop Chair, "Understanding the California Market for Energy Storage," and Speaker, "Update on Procurement Plans, Policies and Procedures under California's AB 2514," 7th Annual Storage Week, Feb. 11, 2014
- Moderator, "Playing in the New California Energy Storage Market," California Energy Summit, Dec. 5, 2013
- Speaker, "Changing Structural Elements in the Electric Business and the Resulting Pressure to Move Away from Traditional Utility Models: Elements That Are Gaining Traction," Energy in California, Nov. 4, 2013
- Speaker, "Renewable Energy Credits: What sources qualify; what is tradable, how the market works; opportunities for commercial customers," Toxics Regulation for Retailers and Consumer Products Manufacturers, April 24, 2012
- Speaker, "FERC Order 784," Infocast Webinar, Oct. 2, 2013

- Speaker, “In-State vs. Out-of-State Renewable Resources to Satisfy RPS Requirements,” CALIFORNIA RPS: Meeting the Mandate, Oct. 24, 2011
- Panelist, “Tradable Renewable Energy Credits in California,” Infocast Webinar, March 1, 2011
- Moderator, “Developments in California’s Renewable Power Market,” 6th Annual California Power Market Forum, Dec. 6, 2010
- Moderator, “REC Trading in California,” Infocast Webinar, July 15, 2010
- “Tradable Renewable Energy Credits in California” (coauthor), *The Electricity Journal*, Vol. 23, Issue 6, July 2010
- Chair, “New Legislation for California Renewable Energy: Implications for California’s Energy Future,” Law Seminars International, Nov. 4, 2009
- Moderator, “California Distributed Solar Market,” Infocast Webinar, Sept. 22, 2009
- Chair, “Climate Control Regimes in California and the West: Opportunities in Allowance and Offset Markets,” San Francisco, California, Sept. 2008
- Speaker, “Structuring Global Warming and Green Business Practice Groups,” Bar Association of San Francisco, April 2008
- “When Bad Projects Happen to Good People” (coauthor), *The Law of Biofuels* (2nd ed. 2008)
- “Wind Litigation” (coauthor), *The Law of Wind* (4th ed. 2008)
- “Regulatory and Transmission-Related Issues” (coauthor), *The Law of Solar* (1st ed. 2008; updated, 5th ed. 2017)
- Chair and speaker, “Opportunities Under the West’s New Climate Change and Renewables Rules,” symposium, Clean Power in the West Summit, Nov. 2007
- Speaker, “Global Warming Initiatives in the Western States: Impacts on the Electric Energy Industry and Green Building Industry,” Infocast Webinar, Oct. 2007
- Speaker, “California Global Warming Solutions Act of 2006 and the Electric Energy Industry,” Western Power Supply Forum II, Dec. 2006
- “The California Global Warming Solutions Act of 2006” *Environmental Liability Reporter*, Nov. 2006
- “The Impact of California’s Global Warming Legislation on the Electric Utility Industry,” *The Electricity Journal*, Vol. 19, Issue 9, Nov. 2006
- Speaker, “California Global Warming Solutions Act of 2006 and the Electric Energy Industry,” Infocast Webinar, Sept. 2006
- “CPUC Adopts Backstop Cost Recovery Rules for Transmission Necessary to Meet California’s RPS Goals,” *EnergyPulse*, July 2006
- “DC Circuit Court of Appeals Holds District Court Has Initial Jurisdiction Over PURPA Dispute,” *EnergyPulse*, July 2005
- “Ninth Circuit Declines Review of BPA Decision to Trigger Rate Adjustment Clause,” *EnergyPulse*, July 2005