

TRAILBLAZERS

SOUTH

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What was the genesis of the path that has made you a trailblazer?

For the last decade, my practice has focused on cutting-edge questions regarding the boundary between state and federal jurisdiction in regulating the energy industry. My first case successfully challenged a New Jersey program subsidizing a new natural gas-fired power plant. Subsequently, I successfully defended programs in New York and Illinois that supported nuclear power plants at risk of premature retirement, in order to prevent the increase in carbon emissions that would otherwise have resulted.

What sort of change has resulted from the concept?

State and federal regulators each play an important role in the energy industry, but their perspectives are not always aligned. For example, many states have sought to transition their electric generation fleets to non-emitting sources of power, including by subsidizing clean energy. But these programs have effects on federally regulated wholesale power markets. This has produced litigation in federal courts and at the Federal Energy Regulatory Commission. Jurisdictional questions have likewise arisen regarding the construction of new electric transmission lines, the legality of state net energy metering programs to promote rooftop solar panels, the relicensing of hydroelectric dams, and proposals for a carbon tax. Working with incredibly talented colleagues, I have helped to establish and confirm the ability of states to adopt programs to promote clean energy without intruding on the federal regulatory scheme.

What bearing will this have on the future?

Addressing climate change is one of the most important challenges of our time and will require major investment in new energy infrastructure. Legal predictability is important in an industry that requires large capital investment, and unresolved jurisdictional questions can impede progress. I hope our work has contributed, at least in a small way, in moving the country toward a solution.