

What Does an Electric Power Attorney Do?

Providing [electric power](#) in the United States is big business. With enormous profits to be made by large power companies, under the oversight of powerful regulators, the legal work associated with this industry is immense. The electric power attorney represents the power companies, works for the regulators, engages in power transmission transactions, or is involved in lawsuits of power company conduct.

What is the Role of an Electric Power Attorney?

Electric Power Attorney provides assistance to the electric power company, a consumer, a municipality, or a non-government entity.

Typical areas of practice for an electric power lawyer include regulatory analysis, advocacy, and interpretation in connection with proceedings before any regulatory agency.

In a litigation context, attorneys assist in representing a client before a regulatory agency in seeking a license, permit, or approval issued by an agency. Legal representation is also often sought by parties during appeals of regulatory decisions or orders to the appropriate appellate court.

An electric attorney assists in responding to regulatory enforcement actions, participating in the formal rulemaking process, providing legal advice on compliance with laws and regulations, or representing a client in the purchase and sale, or financing of electric services.

By participating in regulatory proceedings, drafting landmark deregulation legislation, and handling related appellate litigation, they contribute to the deregulation and restructuring of the nation's electric industries.

Legal and Regulatory Framework Governing Electric Power

The Federal Power Act of 1920, since amended many times, created the [Federal Energy Regulatory Commission](#) (FERC or Commission). This agency regulates the interstate transmission of electricity. The Commission:

- Reviews mergers and acquisitions and other corporate transactions by electricity companies;

- Evaluates submitted siting applications for electric transmission projects;

- Licenses and periodically reviews private, municipal, and hydroelectric projects;

- Ensures the dependability of the high voltage interstate transmission systems through reliability standards; and

- Oversees environmental issues associated with hydroelectricity matters.

Commission Enforcement

FERC takes its mission seriously and has an aggressive enforcement program that focuses on:

- Market manipulation

- Fraud

- Anticompetitive conduct

- Violations of electric reliability standards

- Other threats to the transparency of the regulated market.

The Commission has broad powers to investigate and possesses the necessary tools to do so. Here is an overview of its investigative process.

Audits

FERC's Division of Audit and Accounting (DAA) has the legal authority to perform public electric utility audits. A company subject to an audit receives a commencement letter. This letter "describes the purposes and scope of the audit." It requires the audited company to provide DAA's audit team free access to its property, accounts, records, and other documentation.

Based on the information obtained through its audit, DAA issues a draft audit report to the company. It includes DAA's findings and recommendations for corrective action. Typically, the audited business has 15

days to respond informally. This response may contain the company's alternative recommendations and corrective actions to address the audit staff's concerns.

After considering the company's informal response, DAA issues its conclusions, to which the audited business provides a formal response. This will state:

Whether the company agrees with the audit findings;

The status of any corrective actions being undertaken; and

Alternative resolutions to any of DAA's recommended corrective actions.

Once the targeted company's responses are received, Commission staff will review them. If they determine the response is insufficient, they likely will recommend further action to the Director of the Office of Enforcement. If the Director agrees, FERC will issue a Preliminary Notice of Violation. Commission staff and the company will then re-engage in settlement discussions.

If a settlement is reached, the parties will enter into a Stipulation and Consent Agreement. If the parties are unable to settle, then FERC will issue an Order to Show Cause. Suppose settlement still is not possible after issuance. In that case, the Commission likely will take administrative action against the company, which has the right to appeal such action in federal court.

Most targeted companies make substantial efforts to avoid administrative actions because the resulting fines can be severe. For example, FERC fined Barclays \$70 million and ordered it to disgorge \$35 million in profits after the Commission accused the company of manipulating energy markets in the Western United States.

State Regulations

While FERC has extensive powers, our federal system of government means that much electric power oversight remains with state Public Utility Commissions. These state agencies regulate the retail electricity sales to consumers (including rates) and the construction of electric generation facilities. They have their own enforcement divisions.

Careers for Electric Power Attorneys

There are two broad career options for electric power lawyers - public service and the private sector.

Public Career Opportunities

Electric power attorneys have many prospects in the public arena.

FERC Staff Attorneys

These electric power lawyers litigate cases in FERC's administrative proceedings and draft associated motions and briefs.

They also research and prepare documents like Preliminary Notices of Violation, Stipulation and Consent Agreements, and Orders to Show Cause. Finally, the draft proposed rules for the Commission and provided it other legal support.

FERC Administrative Law Judge

Administrative Law Judges (ALJs) adjudicate FERC's administrative actions. They conduct hearings, render decisions, and facilitate settlement hearings.

State Opportunities

Like the federal government, the states have enforcement agencies similar to FERC to enforce actions related to their role in electricity. For example, there is the California Public Utilities Commission and the New York State Public Service Commission. These state agencies hire electric power attorneys as well.

Private Career Opportunities

Electric power attorneys also have options in the private sector.

Defense Attorney - FERC and State Agencies

Massive electric power companies like Pacific Gas & Electric and Florida Power & Light are billion-dollar industries. For example, in 2019, Pacific Gas & Electric reported more than \$17 billion in revenue.

Occasionally, businesses like these become the target of federal or state investigations or enforcement actions. They hire electric power lawyers to negotiate with or litigate against FERC and state equivalents alternatively.

The electric power lawyer employed by these companies have several roles:

Replying to FERC's commencement letters and associated audits. The lawyer is present while FERC performs its audit and accesses its property, accounts, records, and other documentation.

Answering FERC's draft audit reports. The attorney responds to the Commission's concerns and proposes possible corrective actions to prevent FERC's further administrative actions.

Responding to the Commission's Notices of Violations and Orders to Show Cause.

This involves reviewing the notice and entering into negotiations with FERC to see if a settlement is possible. If so, the attorney will work with FERC on the Stipulation and Consent Agreement. If a settlement is not possible, the attorney will have to review FERC's Order to Show Cause.

Administrative Proceedings. The targeted company's electric power lawyer represents the company in FERC's hearings and adjudications before the Commission's administrative law judge.

Federal Court. Represents the business to defend it against FERC's allegations in federal district court.

Suppose the company disagrees with the district court's decision. In that case, the electric power attorney will likely retain outside counsel specializing in appellate practice to representing the company in the U.S. Court of Appeals and even the Supreme Court.

While this is the federal process, the electric power attorney would follow similar procedures when dealing with state public utility commissions' investigations and enforcement actions.

Defense Attorney - Civil Lawsuits

On November 18, 2018, the most deadly and destructive wildfire in the history of California occurred. Allegedly started by a faulty electric transmission line owned by Pacific Gas & Electric, the fire rapidly expanded to an area of 240 square miles and destroyed the town of Paradise, California. At least 85 civilians died, and five firefighters were injured. The fire destroyed more than 18,000 structures and caused over \$16 billion in damages.

It did not take long for the lawsuits to be filed against Pacific Gas & Electric. Armies of electric power defense attorneys are involved in the utility's defense in court.

Due to the age of the nation's electric transmission infrastructure, more wildfires and similar events will occur, leading to a steady demand for electric power lawyers in civil defense.

Defense Attorney - Criminal

Public utilities, in addition to being sued for civil issues, can be criminally charged. For example, Pacific Gas & Electric ultimately pled guilty to 84 counts of involuntary manslaughter in the fire described above. Electric power attorneys specializing in criminal defense are needed for these types of criminal prosecutions.

Transactions, Mergers, and Acquisitions

Electric power companies and private firms are continually entering into transactions, mergers, and acquisitions. They often hire outside counsel for assistance. The electric power attorneys that work for these retained law firms:

Negotiate and seek approval of wholesale power and transmission venture contracts by appropriate regulatory bodies;
 Prepare documentation for developing financial joint generation and transmission ventures;
 Draft and negotiate power purchase agreements and other contracts necessary to implement related projects; and
 Represent electric power companies in the appellate process at federal and state levels.

Law School Professor

Some law schools have institutes or degree specializations geared toward the electric power field. This is an excellent opportunity for experienced regulatory or civil defense electric power attorneys to change careers later in life and be [law school professors](#).

How do I Become an Electric Power Lawyer?

There are a couple of things interested individuals can do. First, consider a major in electrical engineering or business before law school. When looking at law schools, consider attending one that has a specialized program in energy policy. Both will serve you well and help you on the way to being a [successful electric power attorney](#).

See also:

[Energy Public Utility Attorney Jobs in San Francisco.](#)

[Your Job Search and Future Prospects Will Be Determined by the Company You Keep.](#)

[Fight for the Right to Work.](#)

[The Life And Career Of Marcia Clark, Criminal Defense Attorney.](#)

[The Most Valuable Work Is Work That Repeats Itself.](#)

[Froth, Downward Wages, and the Importance of Repeat Business](#)