

Energy Group Of The Year: Cravath

By **Keith Goldberg**

Law360 (February 13, 2025, 4:00 PM EST) -- Cravath Swaine & Moore LLP secured groundbreaking legal wins for some of the U.S. energy industry's biggest players, including Pacific Gas & Electric Co. and The Williams Cos., earning the firm a spot among the 2024 Law360 Energy Groups of the Year.

In October 2023, Delaware's top court affirmed a more than \$600 million win for Cravath client Williams in a years-long saga over the midstream giant's soured merger with Energy Transfer LP. A month later, Cravath attorneys convinced California's top court that PG&E couldn't be sued for doing emergency power shutoffs in order to reduce wildfire risks, which helped put an end to a multibillion-dollar class action against the state's largest utility.

Cravath doesn't have a traditional energy practice group, but what it does have is longstanding relationships with major companies across the sector and a commitment to cover the entire waterfront of legal issues for them, be it litigation, transactions or regulatory work.

"Cravath itself has been around for over 200 years; the only way we're able to survive and thrive for that long is to be nimble," said Kevin Orsini, who co-leads the firm's litigation department and represented Williams in the Energy Transfer litigation. "The core strategy for us has always been fairly simple and fairly consistent across practice areas: to form lasting relationships with anchor clients in each industry to bring expertise to their problems."

In the energy sector, one of those anchor clients is PG&E, which has leaned on Cravath to handle high-stakes bankruptcy and liability litigation stemming from deadly wildfires that have scorched the Golden State in recent years.

That included a \$2.5 billion class action alleging the utility's negligence in maintaining its grid necessitated emergency power shutoffs to reduce wildfire risk. After a bankruptcy court initially dismissed the suit, the Ninth Circuit on appeal asked the California Supreme Court to answer two novel questions about the scope of prevention under the California Public Utilities Code.

The California Supreme Court in November 2023 held that the suit is barred by the code because while it allows for a private right of action against utility companies like PG&E, it also preempts actions that would interfere with the CPUC. Because the class action against the company would interfere with the CPUC and its official duties, it cannot proceed, the court concluded.



With that ruling in place, the Ninth Circuit in January 2024 affirmed the dismissal of the suit.

Cravath litigation partner Omid Nasab, who argued the case for PG&E, said the ruling was not only significant for the company, but for utility regulation in California more broadly as wildfires grow increasingly common.

"It was a very clear opinion from the California Supreme Court that the statute was still vibrant, and it gave a muscular vision of what the statute does to protect utilities where they're following their regulator's guidance," Nasab said. "It has enlivened that entire statute, which is going to have applications across a number of fields."

The work Cravath has done with PG&E has also made it a go-to firm for utilities concerned about wildfire-related liability, Nasab said.

"Since 2018, I don't think there's been a day that has gone by in my practice that has not involved working actively on advising utilities on issues regarding litigation, predominantly wildfire litigation," he said.

Another Cravath litigation win that has ripple effects beyond the courtroom was the Delaware Supreme Court's October 2023 decision affirming lower court decisions that directed Energy Transfer to pay more than \$600 million for backing out of a \$38 billion merger with Williams in 2016.

The opinion came after 7½ years of litigation over the failed pipeline company merger, and the case was watched not only by the energy industry, but dealmakers throughout the corporate world.

The Delaware Supreme Court said it found "no error with the Delaware Court of Chancery's well-reasoned opinions" that denied Energy Transfer a \$1.48 billion breakup fee, found Williams did not breach the merger agreement, awarded Williams a \$410 million reimbursement fee, and ordered Energy Transfer to pay Williams \$85 million in attorney fees, plus interest and expenses.

Orsini said the case has inspired changes to how companies handle mergers and acquisitions, including altering how closing conditions to deals are structured and putting additional teeth into interim operating agreements before a deal closes.

"When you have these transactions that have a long lag period between signing and closing, it's critical that you be able to protect the benefit of the bargain, and ensure that changes can't be made by the other party to the business in a material way that would fundamentally undermine what you had negotiated for," he said.

Cravath's significant energy work isn't limited to the courtroom. It consistently helps broker multibillion-dollar M&A and project finance deals across the sector, including Brookfield Renewable Partners' \$8 billion purchase of nuclear power plant builder Westinghouse Electric Co., and the \$2.8 billion purchase of Duke Energy Corp.'s renewables arm. The Duke deal closed in October 2023 and the Westinghouse deal closed the following month.

Orsini said that as the energy industry continues to evolve, with low-carbon and zero-carbon energy becoming more prominent, Cravath's energy work will grow in order to handle that evolution. The firm

takes pride in being a one-stop legal shop for companies that build critical infrastructure and power society, he said.

"That's an exciting part of this for us, and it's one of the reasons why we'll continue to emphasize this practice," Orsini said.

--Additional reporting by Madeline Lyskawa, Leslie A. Pappas, Al Barbarino, Lauren Berg and Dorothy Atkins. Editing by Adam LoBelia.

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