



# Joseph H. Fagan

## Partner

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## Overview

Joseph Fagan, the Managing Partner of the DC office, represents natural gas and electric clients alike on energy regulatory, litigation, contractual and transactional matters, and frequently provides assistance on enforcement, government investigations, corporate compliance, ratemaking, project development, asset acquisitions and all other matters associated with the regulated power and gas markets. Joseph's clients have included:

- Wholesale and retail marketers
- Municipalities
- Industrial end-users
- Natural gas storage companies
- Renewable natural gas project developers
- Liquefied natural gas project developers
- Producers
- Local distribution companies
- Power marketers
- Interstate and intrastate pipelines
- Electric utilities
- Renewable power developers
- Qualifying facilities

Joseph has represented clients for over 25 years in federal, appellate and district court litigation, and before the Federal Energy Regulatory Commission (FERC) and the Department of Energy (DOE) in a broad range of matters including rate, enforcement, permitting and import/export issues. Ranked by *Chambers USA* for his regulatory work in both electricity and oil and gas, Joseph is described in the 2021 edition of *Chambers USA*, as being "[d]eeply knowledgeable," with "a real mastery of the law." He is also described as "[a] very skilled and effective litigator with broad legal skills." Joseph frequently speaks and writes about pertinent energy industry topics. He is a past member of the Board of Directors of the Charitable Foundation of the Energy Bar Association. \* *No aspect of these advertisements have been approved by the highest court of any state. See Awards Methodology.*

## Experience

### *Natural Gas*

Represented a nonprofit agency in litigation and negotiations with natural gas suppliers arising from Winter Storm Uri in February 2021

## Practices & Industries

[Corporate & Business Law](#)

[Data Privacy, Protection & Litigation](#)

[Energy Law](#)

[Energy Litigation](#)

[Energy Regulation and Compliance](#)

[Energy Storage](#)

[Infrastructure](#)

[Natural Gas](#)

[Renewable Energy](#)

Represented a natural gas marketer in negotiating a series of complex and politically sensitive LNG supply and exchange agreements with the municipal utility of a major Northeastern city

Successfully represented a coalition of two dozen Midwestern municipalities in a contested FERC pipeline rate proceeding

Represented an energy company in various compliance, regulatory and certificate matters concerning its FERC-regulated natural gas asset

Served as lead outside counsel to various shippers in the negotiation of commercial agreements with interstate natural gas companies proposing pipeline expansion and lateral projects

Served as lead outside counsel to an LNG company on FERC and DOE regulatory matters

Provided regulatory and due diligence advice in client acquisition of CNG fueling station portfolio

Served as lead outside counsel to several FERC-regulated natural gas storage companies on certificate, audit, enforcement, rate and tariff matters

Served as lead outside counsel to a New England stakeholder group seeking solutions to regional natural gas/electric interdependency issues

Served as lead outside counsel to a state-regulated anchor shipper in the negotiation of transportation and negotiated rate agreements with two different interstate natural gas companies proposing pipeline expansion projects in the Northeastern United States

Served as Co-FERC counsel to an LNG company in conjunction with the regulatory and commercial issues associated with the commissioning and placing into service of a Gulf Coast LNG import terminal and its associated interstate natural gas pipeline

Served as lead outside counsel to an electric utility in the negotiation of long-term natural transportation and supply agreements for a 637 megawatt combined-cycle gas-fired power plant in Utah

Served as lead outside counsel for natural gas storage company seeking to develop FERC-jurisdictional 30 Bcf natural gas storage facility in Liberty County, Texas

Represented the Chief Executive Officer of a hedge fund in natural gas enforcement proceedings at FERC

Served as lead outside FERC counsel on numerous acquisitions and financings of natural gas assets

Served as lead outside counsel on behalf of shippers in numerous FERC rate and tariff proceedings

### *Electricity*

Served as a lead due diligence counsel in support of hundreds of millions of dollars of tax equity investments in multiple solar portfolios

Represented company and several of its employees as lead outside counsel in FERC enforcement investigation into alleged improper bidding activity in a wholesale capacity market auction

Represented two witnesses in FERC enforcement investigation into alleged regulatory and tariff violations associated with the operational availability of a new power plant

Represented stakeholders at FERC and in the United States Circuit Courts of Appeals in litigation involving the distribution of refunds and the development of remedies related to the failure of the California wholesale electric markets in 2000/2001

Served as co-counsel in FERC enforcement proceeding (and related D.C. Circuit appeal) targeting an individual trader for alleged violations of electric market behavior rules

Served as lead outside counsel in a successful effort to obtain rate incentives for a proposed \$6 billion electric transmission project on behalf of one of the nation's largest electric utilities

Represented merchant generation developers on regulatory matters in conjunction with asset acquisitions and divestitures

# Education and Credentials

## Education

The George Washington University Law School, J.D., 1993

Wesleyan University, B.A., with Honors, 1988

## Admissions

U.S. Court of Appeals for the Tenth Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the District of Columbia Circuit

State of Connecticut

District of Columbia

## Affiliations

Energy Bar Association (EBA), Natural Gas Regulation and Compliance and Enforcement committees

American Bar Association, Section on Public Utility, Communications and Transportation Law

Northeast Energy and Commerce Association, Board of Directors

# Recognition and Community

*No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome. See Awards Methodology.*

## Recognitions

Chosen for inclusion in *The Best Lawyers in America* (Woodward/White, Inc.) for Energy Law, 2023-2025, Energy Regulatory Law, 2025

Chosen for inclusion in the *Chambers USA Legal Directory* (Chambers & Partners) of recognized practitioners for Energy: Electricity (Regulatory & Litigation) Nationwide, 2010-2024

Chosen for inclusion in the *Chambers USA Legal Directory* (Chambers & Partners) of recognized practitioners for Energy: Oil & Gas (Regulatory & Litigation) Nationwide, 2021-2024

Chosen for inclusion in the *Chambers Global* (Chambers & Partners) for Energy: Electricity (Regulatory & Litigation), 2016-2024

Chosen for inclusion in the *Chambers Global* (Chambers & Partners) for Energy: Oil & Gas (Regulatory & Litigation), 2021-2024

Recipient of a Day Pitney Coleman Award for his commitment to pro bono and public service, 2022

Selected to the list of Washington, D.C. *Super Lawyers* (Thomson Reuters), Energy and Natural Resources, 2013-2016, 2018-2024

# Insights

Recent D.C. Circuit Decisions Shed Light on FERC Review of Natural Gas Certificate Applications

August 19, 2024

Supreme Court Overturning Chevron Leaves a Wake of Regulatory Uncertainty for Employment and Energy Agency Actions

July 18, 2024

Decoding a Post-Chevron World: The Future of Federal Agency Authority

February 29, 2024

FERC Actions Signal Concern Over Investors' Utility Stakes

January 18, 2024

FERC Issues Notice of Inquiry on Blanket Authorizations for Investment Companies

December 22, 2023

Day Pitney Sponsors 2023 New England Energy Conference and Exposition

June 7-8

"Grid Reliability Challenges: Will the Lights Stay On?" Day Pitney

November 10, 2022

FERC Issues Notice of Proposed Rulemaking Reforming Generator Interconnection Procedures and Agreements

June 27, 2022

FERC Issues Two Policy Statements Impacting Natural Gas Infrastructure Projects

June 2022

FERC Issues Two Policy Statements Impacting Natural Gas Infrastructure Projects

February 22, 2022

Federal Energy Regulatory Commission Advances Major Initiative to Overhaul Transmission Planning, Cost Allocation and Generator Interconnection Processes

July 22, 2021

FERC Finalizes Pricing and Eligibility Changes to PURPA Regulations

July 24, 2020

Dismissed: FERC Declines on Procedural Grounds to Act on Petition Seeking Assertion of FERC Jurisdiction Over Net Metering Sales

July 17, 2020

DC Circuit Court Decision on Federal/State Jurisdiction in Energy Storage

July 14, 2020

Appellate Review of FERC Orders Potentially Accelerated

July 9, 2020

FERC/Bankruptcy Court Concurrent Jurisdiction

April 2, 2020

Challenges Facing Energy Businesses in the COVID-19 Outbreak

March 20, 2020

FERC QF Developments: PURPA Implementation Changes Proposed; NH Crossed the Line

September 25, 2019

FERC Final Rule Narrows and Clarifies Filing Requirements for Applicants and Holders of Interlocking Positions

March 5, 2019

Federal Energy Regulatory Commission (FERC) 101

November 13, 2018

FERC Proposes Changes to Interlock Reporting Requirements

July 24, 2018

Not So Fast, Ohio: FERC Weighs In On Wholesale Energy

May 24, 2016

Not So Fast, Ohio.

April 29, 2016

Supreme Court Rules Maryland Subsidy Program Infringes on FERC Authority

April 20, 2016

What's Next For Wholesale Electricity Market Operators

February 11, 2016

What's Next? Potential Impact of the Landmark Supreme Court Decision in FERC v. EPSA on Demand Response Across the Country

February 9, 2016

Joe Fagan, David Doot, Flossie Davis and Jamie Blackburn Write Article on LNG Jurisdiction for Law360

May 5, 2015

Once Again, Commission Disclaims Jurisdiction Over LNG Facilities

April 8, 2015

New York Adopts Regulations for Liquefied Natural Gas Facilities

January 30, 2015

Energy Challenges in the Northeast: Fuel Security, Electric Bills and Regional Efforts

January 25, 2015

FERC Issues Another Natural Gas Order; Bay Dissents Again

September 23, 2014

Commission Disclaims Jurisdiction Over Two LNG Projects; Bay's Dissent: Sign of Things to Come?

September 12, 2014

LNG Project Does Not Require FERC Approval or Oversight

July 22, 2014

Energy Attorneys Discuss End of LNG Export Moratorium in *Law360*

May 22, 2013

*Law360* Publishes Energy Attorneys' Article on DC Circuit's FERC ROE Decision

May 21, 2013

DOE Ends LNG Export Approval Moratorium

May 20, 2013

## News

Day Pitney Welcomes Attorney Heather Feingold to Growing Energy Team

Day Pitney Press Release, December 16, 2024

Day Pitney Grows Energy Team with Washington, D.C. Partner Mark Williams

November 18, 2024

Chambers Recognizes Day Pitney with Elevated Rankings Across Practices and Attorneys

June 6, 2024

Day Pitney Announces New Leadership Appointments

April 2, 2024

Chambers Global 2024 Ranks Day Pitney's Energy Practice Group and Attorneys

February 23, 2024

Day Pitney Boosts Energy Team with Washington, D.C. Partner Valerie Green

October 9, 2023

Chambers USA 2023 Ranks 35 Day Pitney Attorneys and 13 Practices

June 1, 2023

Chambers Global 2023 Ranks Day Pitney's Energy Practice Group and Attorneys

February 21, 2023

Joseph Fagan Appointed to NECA Board of Directors

November 3, 2022

Day Pitney Honors Washington, D.C. Attorneys with 2022 Coleman Awards for Exemplary Pro Bono Service

October 27, 2022

Chambers USA 2022 Ranks 34 Day Pitney Attorneys and 13 Practices

June 1, 2022

Chambers Global 2022 Ranks Day Pitney's Energy Practice and Attorneys

March 8, 2022

Chambers USA 2021 Ranks 31 Day Pitney Attorneys and 13 Practices

May 21, 2021

Chambers Global 2021 Ranks Day Pitney's Energy Practice and Attorneys

March 8, 2021

Chambers USA 2020 Ranks 34 Day Pitney Attorneys and 12 Practices

April 30, 2020

Chambers Global 2020 Ranks Day Pitney's Energy Practice, Energy Attorneys, and Individual Client Attorneys

February 18, 2020

Chambers USA 2019 Ranks 38 Day Pitney Attorneys and 12 Practices

May 8, 2019

Chambers USA 2018 Ranks 39 Day Pitney Attorneys and 11 Practices

May 25, 2018

Chambers USA 2017 Ranks 41 Day Pitney Attorneys

May 26, 2017

87 Day Pitney Lawyers Named to 2016 Super Lawyers List

November 10, 2016

Chambers USA 2016 Ranks 47 Day Pitney Attorneys

May 27, 2016

Chambers Global 2016 Recognizes Six International Private Client and Energy Partners

March 23, 2016

91 Day Pitney Lawyers Named to 2015 Super Lawyers List

October 30, 2015

Chambers USA 2015 Ranks 51 Day Pitney Attorneys

May 21, 2015

Eighty-Four Day Pitney Attorneys Recognized by Super Lawyers for 2014

November 3, 2014

Chambers USA 2014 Ranks 46 Day Pitney Attorneys

May 23, 2014

Eighty-eight Day Pitney Attorneys Recognized by *Super Lawyers* for 2013

October 22, 2013

Chambers USA 2013 Ranks 39 Day Pitney Attorneys

May 24, 2013

Chambers USA 2012 Ranks 41 Day Pitney Attorneys

June 8, 2012

## In The Media

Day Pitney Latest Firm To Add Energy Talent With 30-Year Vet

Law360, November 20, 2024

Day Pitney Announces New Leadership Appointments

CityBiz, April 2, 2024

Day Pitney Announces Leadership Changes

Law360 Pulse, April 2, 2024

Day Pitney Brings on Energy Atty with Regulatory Focus

Law360, October 11, 2023

The Power of Experience Leveraging Senior Attorneys

Washington Lawyer, march/april 2022

GHG Ruling Won't Thwart FERC Pipeline Review Shift

Law360, February 16, 2022

Major Gap,' Gas Industry FERC Petitions Stoke NEPA Concerns

E&E News, September 22, 2021

Fuel shippers seek U.S. review of 'excessive' Colonial Pipeline rates

Reuters, December 8, 2017

Perry's FERC Grid Pricing Plan Would Roil Energy Markets

Law360, September 29, 2017

Skeptical Courts May Undermine Trump's Energy Project Push

Law360, August 23, 2017

1st Circ. Bolsters State Powers in Gas Pipeline Reviews

Law360, March 21, 2017

LNG projects could face new scrutiny if US invokes 'protect the public' clause

S&P Global Market Intelligence, February 9, 2017

For rebuffed Jordan Cove LNG, pipeline was the stumbling block at FERC

S&P Global Market Intelligence, December 12, 2016

Pipeline Fights May Determine Scope Of Climate Reviews

Law360, October 6, 2016

NY Nuke Plant Subsidies Will Likely Face Legal Battle

Law360, August 2, 2016

FERC has 'tools' to expand LNG reviews, environmental lawyer tells court

SNL Gas Week, April 27, 2016

D.C. Circuit to Hear Oral Arguments on Dominion LNG Facility

Bloomberg BNA, April 19, 2016

Court 'more likely than not' to uphold FERC's Cove Point LNG review

S&P Global Market Intelligence, April 12, 2016

Jordan Cove LNG export project 'in limbo' after FERC rejection

SNL Energy's Daily Gas Report, March 24, 2016

Speaker, "The Challenges of Natural Gas Abundance," Energy in the Northeast Conference, September 9, 2013

September 9, 2013

Speaker, "Becoming Bilingual: Gas and Electric Industry Background Session," Energy Bar Association Western Chapter Meeting, November 2012

November 1, 2012

Speaker, Oil & Gas Investment Symposium, Independent Petroleum Association of America, New York, NY, April 2011

April 1, 2011

Speaker, "The Future of Natural Gas," Argyle Executive Forum's 2010 Leadership in Oil & Gas, Houston, Texas, May 2010

May 1, 2010