



Devan K. Flahive

senior associate

Devan concentrates her practice in energy and regulatory matters, as well as in antitrust and litigation.

Devan's energy clients span the full length of the supply chain: from operators engaged in natural resource extraction and power generators to pipelines, transmission operators and retail natural gas/electricity suppliers. She has defended oil and gas production companies in litigation involving construction of lease provisions, royalty deductions, bonus payments, liability for plugging and abandonment costs, development of mineral interests acquired at tax sales and partition in lieu of forced pooling. She has represented pipeline companies in disputes relating to joint venture operating agreements and natural gas processing facilities construction. She has also counselled clients in connection with natural gas purchase and sale agreements, and drilling/injection well permitting. Additionally, Devan has experience in predatory pricing and horizontal price fixing claims, as well as antitrust compliance programs, policies and procedures. She served as counsel to an oil company in a case implicating the West Virginia Unfair Practices Act.

Further, Devan has advised operators of natural gas gathering facilities and a gas-fired power plant in connection with pre-litigation strategy and resolution of disputes with FERC-regulated pipelines. She counsels natural gas companies on FERC-jurisdictional considerations and advises intrastate pipelines about state regulatory obligations as applied to operational issues. She represents public utilities in proceedings before the Public Utilities Commission of Ohio (PUCO) and appellate litigation. In one such PUCO complaint case, she helped successfully defend a public utility against "abuse of market power" claims brought by a competitor – a decision affirmed by the Ohio Supreme Court.

Devan represents renewable resources and cogeneration facilities in compliance filings pursuant to FERC regulations, in drafting applications and petitions for authorizations from FERC under the Federal Power Act and in navigating resolution of issues with FERC enforcement staff. Additionally, Devan counsels power marketers on state regulatory obligations.

CONTACT

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SOCIAL MEDIA

Blogs
energylawreport.com

EDUCATION

Pennsylvania State University
Dickinson School of Law, J.D., 2014

Cornell University, B.S., *cum laude*,
2008

SERVICES

Energy

- Oil and gas
- Utility regulation

Antitrust & Consumer Protection

Litigation

- Antitrust litigation
- Construction Litigation

Environmental

- Chemical industry

Business Growth & Operation

- Chemicals

Between her antitrust practice and her due diligence work in energy facilities acquisitions, Devan has extensive experience analyzing competitive effects of a proposed transaction. Devan presented on some of these issues, including the filed rate doctrine as a defense to certain antitrust challenges to rates set by FERC or state utilities commissions, at the Energy and Mineral Law Foundation's Annual Institute in 2016.

Prior to joining Porter Wright, Devan was a consultant in the dairy business for an industry-leading animal nutrition entity. She worked with dairy farm clients in Vermont, New Hampshire and New York on developing and implementing strategies for increased herd productivity in terms of milk volume and overall profit maximization. Her analysis of issues included commodity selection and purchasing, crop management and cow health.

BAR ADMISSIONS

- Ohio
- West Virginia
- U.S. District Court for the Northern District of West Virginia
- U.S. District Court for the Southern District of Ohio

PRESENTATIONS

- "2019 Trial Skills Institute," Columbus Bar Association, Dec. 6, 2019
- "Oil and Gas Antitrust Concerns," Energy and Mineral Law Foundation Annual Institute, June 14, 2016

PUBLICATIONS

- "Together is not always better: Understanding the antitrust pitfalls in the oil and gas industry," *West Virginia Executive*, June 20, 2017
- "Dual natural gas markets: The antitrust paradox of deregulating a market tied to a natural monopoly," *Energy & Mineral Law Institute*, 2017
- "Waterless fracing," *West Virginia Executive*, Spring 2015

PROFESSIONAL ASSOCIATIONS

- The Energy Bar Association
- Marcellus Shale Coalition
- Institute for Energy Law
- West Virginia Oil & Gas Association

HONORS | AWARDS

- *Ohio Super Lawyers*®, Rising Stars Edition, 2021
- *Leadership Harrison*, 2015
- CALI Excellence for the Future Award® in Legal Writing

COMMUNITY

- West Virginia University Davis College of Agriculture, Natural Resources and Design, Adjunct Professor for Agricultural and Natural Resources Law, 2015, 2017