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# Husch Blackwell Prevails in Precedent-Setting FERC Decision

On behalf of clients Tilden Mining Company L.C. and the Empire Iron Mining Partnership, both affiliates of Cliffs Natural Resources, Husch Blackwell prevailed today in a multi-million dollar dispute before the Federal Energy Regulatory Commission (FERC) with potentially precedent-setting implications for the utilities industry.

The dispute concerned the efforts of a coalition of seven Michigan-based electric transmission customers seeking refunds from Wisconsin Electric Power Company (WEPCo) and the Midcontinent Independent System Operator (MISO). Husch Blackwell served as lead counsel for the coalition as it pressed forward allegations that WEPCo's collection of costs from the coalition of Michigan rate-paying customers was unjustified and unreasonable.

After a week-long trial at FERC in April 2016, the Husch Blackwell team wrote Post-Hearing Briefs outlining why refunds were justified based upon the evidence. Administrative Law Judge Michael J. Haubner essentially agreed with our firm's presentation, issuing an Initial Decision granting refunds to the coalition totaling approximately \$20 million, plus interest. The Initial Decision also found that WEPCo engaged in "manipulation" of its accounting records and rejected recovery of \$1.4 million of WEPCo's costs on that basis.

The Initial Decision is potentially precedent setting as the first litigated case involving special contracts, called SSR Agreements, to keep aging utility plants in service for reliability reasons after the owners have made a decision to cease operations for environmental and economic reasons. The decision is subject to potential appeal by WEPCo and MISO.

The Husch Blackwell trial team was led by partner Bill Demarest and included associate Sylvia Bartell.