

## INDUSTRY

## Energy, Utilities &amp; Cleantech

## KEY CONTACTS

Joshua Lee Smith

T. 508-926-3464

E. [jsmith@bowditch.com](mailto:jsmith@bowditch.com)

## PARTNERS

[Paul C. Bauer](#)[Peter F. Cifichiello](#)[Joshua Lee Smith](#)[Christopher Terry](#)

## OF COUNSEL

[Robert D. Cox, Jr.](#)

## ASSOCIATES

[Joseph R. Duquette](#)

## OVERVIEW

## ENERGY, UTILITIES &amp; CLEANTECH

Our Energy, Utilities & Cleantech clients span traditional utilities, renewable energy start-ups and companies that design, engineer, finance and construct renewable energy systems. Consulting and professional services companies that advise the renewable energy industry and non-energy companies, universities, government authorities and nonprofits that would like to become more “green” also seek our counsel and representation.

Our team helps clients develop strategies, secure financing and engage regulators with win-win outcomes in the areas of environmental, permitting and other government regulations. Our members also handle energy industry-related litigation, licensing, distribution, contracts and more, including:

- Commercial transactions
- Corporate formation and governance
- Copyright, trade secrets, trademarks and intellectual property program development
- Employment issues and programs
- Energy purchase contracting and sales
- Energy-efficiency programs
- Real estate, facility siting, permitting and construction
- Federal, state and municipal energy development issues
- Finance strategy, including renewable-energy credits
- Greenhouse gas control and trading
- Legislative, judicial and regulatory analysis, compliance and permitting
- Litigation
- Mergers and acquisitions

## EXPERIENCE

### Trial victory in a claim for negligent construction

In 2014, we prevailed in a jury trial in the Massachusetts Superior Court representing one of the region's largest utility providers in a lawsuit for damages arising out of catastrophic damage caused to an electric transmission line during environmental testing on a construction site. The jury awarded substantial damages to our client after a multi-day trial involving complex environmental and regulatory issues.

### Attention to detail in negotiating a complex solar energy loan

We helped a central Massachusetts bank address a myriad of complicated real estate and organizational issues in making a multi-million dollar solar development loan involving multiple properties in several states. The transaction involved the sale and escrow of Solar Renewable Energy Certificates and the structuring of an intercreditor agreement between the lender and the tax investors. There were a number of moving parts and multiple, unforgiving deadlines.

### Helping obtain a permit for a public utility

A public utility wanted to install a gas-insulated substation, a large, enclosed building within sight of abutting property owners. In the course of the permitting process, we appeared at a series of public hearings, often in the media spotlight. We explained that the improvements would increase power-generating capacity, distribution and reliability for the town. The client agreed to mitigation, including lighting, plant screening, changes to the layout and other creative solutions.

## OTHER EXPERIENCE

- Leasing and development of large-scale solar photovoltaic generation facilities in various communities, including consultation of one of the largest multi-community solar build outs in the state's history, with over 50,000 solar panels
- Expert zoning witness for Department of Public Utility hearings for high profile, interstate transmission line project
- Utility company in negligence/wrongful death action after passenger in motor vehicle was electrocuted upon exiting a vehicle that had struck its utility pole
- Permitting for various public utility infrastructure and improvement projects throughout the Commonwealth, including projects involving two high-profile casino developments
- Utility company in negligence/wrongful death action after homeowner was electrocuted on his porch
- Negotiated and documented a solar lease covering 100-plus acres for a religious non-profit
- Utility company in enforcing easement rights against property owners attempting to block/restrict access and use following a significant weather event
- A hydroelectric company in restructuring a multi-use facility with a complex cross-easement agreement