

Firm Victory on Colorado Renewable Energy Standard

North American Windpower

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Kaplan Kirsch & Rockwell is pleased to announce that the Tenth Circuit affirmed a lower court's ruling that the State of Colorado's Renewable Energy Standard complied with the Commerce Clause of the U.S. Constitution.

Interwest Energy Alliance intervened in this case, *EELI v. Epel*, to help the State of Colorado defend the Colorado standard against claims that the Colorado RES was inconsistent with the Commerce Clause. Kaplan Kirsch & Rockwell briefed and argued the case in front of the Tenth Circuit panel on behalf of Interwest Energy Alliance, the regional affiliate of the American Wind Energy Association. We also represented Interwest in front of the District of Colorado.

The Tenth Circuit agreed with the State of Colorado, Interwest, and other intervenors that the Colorado standard is constitutional because the RES does not attempt to regulate activity entirely outside of Colorado, and does not control prices. The case removes any doubt that Colorado's statute is constitutional and appropriate. The case is also important from a national perspective, because it is the first U.S. Court of Appeals decision addressing whether state renewable mandates are permissible under the Commerce Clause.

For more information, please read the *North American Windpower* article that summarizes the outcome of the case.