



KAPLAN KIRSCH ROCKWELL

Defending the Colorado Renewable Energy Standard

Kaplan Kirsch & Rockwell represented Interwest Energy Alliance, the regional affiliate of the American Wind Energy Association, as an intervenor in the case *EELI v. Epel*, to help the state of Colorado defend against claims that the Colorado Renewable Energy Standard (RES) is unconstitutional. Our attorneys briefed and argued the case in front of the Tenth Circuit panel on behalf of Interwest and also represented Interwest in the District Court proceedings.

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, and it has significance from a national perspective as the first United States Court of Appeals decision that addresses whether state renewable mandates are permissible under the Commerce Clause.

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