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WORKING TOGETHER TO SUCCEED.



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FIRM  
GROUNDING  
TO POINT  
THE WAY  
FORWARD.

BECKER BÜTTNER HELD

# STANDING FIRM.

The history of Becker Büttner Held began with the electricity dispute known as the "Stromstreit", which set the course for a reorganised energy industry after German reunification. With the support of BBH, the foundations were laid for the country's pluralistic energy industry today and in the future.

When Dr. Peter Becker agreed to represent 146 Eastern German municipalities in the electricity dispute in 1991, he was taking on a significant case. At stake was whether municipal utilities in the new federal states would be allowed a role in a modern energy infrastructure landscape, or if instead an oligopolistic supply infrastructure dominated by Germany's major energy supply companies would be established. His successful representation in this landmark case for the German energy industry paved the way for numerous municipal utility companies to be created, laying the groundwork for the energy supply structure as it exists in the new federal states today.

It was also in the early 1990s that name partners Wolf Büttner and Prof. Christian Held joined the firm, which at that time consisted of three lawyers. Back then we already demonstrated the approach that defines us to this day: a commitment to defending our clients' interests while always keeping the bigger picture in mind.

Since then, BBH has evolved in many ways. Over the years, we have succeeded in recruiting many other distinguished colleagues who share our values. Today, BBH has more than 70 partners and more than 550 employees working in Berlin, Munich, Cologne, Hamburg, Stuttgart, Erfurt and Brussels. Meanwhile, name partners Dr. Peter Becker and Wolf Büttner have retired from the law firm.

The principle of fair competition is the linchpin of our work. We advocate for the energy industry to be shaped as the sustainable, decentralised structure that we need for our future. We assist clients from the energy industry in handling the fundamental changes that are brought about by the energy and transport transition, digitisation and sector coupling. Against this broadly drawn background, our clients' particular interests have always remained at the very heart of our practice. We are not "just" legal advisors – at BBH, auditors, tax advisors and the experts from Becker Büttner Held Consulting AG work hand in hand. Today, we are a leading provider of advisory services for the energy and infrastructure industry and far beyond – in Germany and throughout Europe.

Our energy sector specialisation has allowed us to develop an innovative interdisciplinary advisory practice with a solid legal, economic and technical foundation. From this core speciality, we have successfully extended our expertise to other sectors such as water supply, waste disposal, healthcare, public swimming pools, telecommunications and transport. The construction and real estate industry as well as industrial production processes are additional areas that benefit from our comprehensive service offer covering virtually every relevant legal field.



Lawyer **Prof. Christian Held** primarily advises energy companies on their strategic positioning as well as in terms of company law and also provides policy advice.

**Rudolf Böck** is a public auditor and tax advisor with particular expertise in the area of business acquisitions and valuations as well as restructuring projects. His core activities also include audits of companies in the energy industry.

# POOLING INTERESTS.

The German Energy Industry Act (Energiewirtschaftsgesetz) was amended in 2005. Since that time, access to electricity and gas grids has no longer been freely negotiable, but rather subject to official regulation. To address this growing regulatory burden, almost 400 distribution system operators joined the platform that was founded by BBH: AK REGTP.

As early as 2004, we were well aware of the far-reaching consequences of the amended Energy Industry Act, namely that requiring prior approval of grid charges before invoicing was just a first step towards an ever more complex regulatory framework. We therefore founded the “Arbeitskreis Regulierung Elektrizität Gas Telekommunikation Post” (AK REGTP) – a name based on the former name of the federal regulatory authority BNetzA (REGTP) – even before the new act entered into force. Today, almost 400 municipal distribution system operators have joined this platform, where we provide answers to questions relating to legal, technical and economic aspects of the energy market. This enables our clients to benefit from a pool of jointly developed knowledge. AK REGTP also serves as a network allowing its members to exchange ideas quickly, work together in developing and implementing solutions as well as obtain strategic and political advice which is

more important than ever for distribution system operators today.

Interdisciplinary cooperation with our experts and active discussion among members mean that solutions are developed jointly and practical assistance can be offered. Since many regulatory issues affect all municipal utilities, interests can be pooled with a view to forming a shared understanding. This strengthens the position of each and every client vis-à-vis the authorities.

AK REGTP is one of many examples of how we are pooling mutual interests through cooperation and dialogue to develop pioneering solutions for our clients. Such is also the case with our “AK Arealnetz”, an association of numerous industrial – in particular chemical – parks and the majority of commercial airports in Germany.



Lawyer **Dr. Martin Riedel** provides advice on business and project development with a special focus on energy and infrastructure, advising in particular clients from the industrial, transport and housing sectors, the supply and waste management sectors as well as municipal entities. He is renowned for his expertise and litigation experience along the entire value chain.

## SHARED VALUES LEAD TO JOINT ACTION

**Markus Ladenburger**, lawyer, specialises in insolvency law and receivables management. His core practice areas also include the drafting of energy supply, grid access and grid connection contracts.

**Dr. Markus Kachel**, lawyer, advises installation operators and energy-intensive companies in the areas of combined heat and power (CHP), heat supply as well as energy efficiency. He focuses particularly on sector coupling and site-related energy management matters, advising clients on questions of generation, supply and grid operation.







**Jens Vollprecht** is a lawyer who also holds a degree in forestry. As an acclaimed renewable energy expert, his practice is focused on the areas of auctions, landlord-to-tenant electricity supply, the flexibilisation of renewable energy installations, grid integration, sector coupling and electricity storage.

**Dr. Martin Altrock** is a lawyer with wide-ranging expertise across the entire renewable energy spectrum, including grid and market integration of energy installations, the future design of the support framework and related issues such as energy storage.

**Stefan Wollschläger** specialises in heat law, regulatory and pricing law as well as competition and antitrust law. Being a highly experienced lawyer, he also has a remarkable track record in litigation matters.

# WORKING ACROSS BOUNDARIES.

We are currently advising around 200 clients in the field of European emissions trading. Our interdisciplinary advisory approach, however, reaches far beyond the boundaries of energy law, as evidenced by our work for our industrial clients. What begins as consulting on emissions trading often leads to a more comprehensive and equally productive advisory relationship. This also includes responding to new developments concerning Europe as a whole, such as Brexit.

A case in point: We were recommended to a food corporation for our expertise in the emission allowances application process and optimised the corporation's application strategy. Our interdisciplinary approach integrating technical and economic expertise subsequently enabled us to assist the corporation in acquiring a power plant for self-supply. The requirements for this project were diverse, encompassing due diligence and the contract negotiations relating to the acquisition as well as the identification and consideration of complex risks, such as those arising from the Renewable Energy Sources Act. Together with Becker Büttner Held Consulting AG, we then advised the corporation with regard to tendering in the context of industrial gas procurement, the establishment of an energy management system and many other matters.

Energy is an important cost factor for industrial companies. However, our clients have other concerns as well, and as their confidence in our interdisciplinary advisory approach grows over the

course of our work together, they often ask us to assist them in additional areas. In the case of the above-mentioned food corporation, assignments outside the scope of energy law followed: We revised the corporation's General Terms and Conditions for the purchase and sale of raw materials and end products. We advised the company during the construction of a new facility with a special focus on immission control law. We also assisted the client with its tax law and plant security management needs and helped establish a compliance management system. Further assignments included advising on trademark protection, antitrust law and waste disposal issues.

Just as our own partnership evolved from energy law issues, many of our firm's assignments today grow from our advisory activities in this same field. Our experts are consistently able to demonstrate their interdisciplinary knowledge, and do so with the utmost care and meticulous attention to detail.



Lawyer **Ulf Jacobshagen** is a well-known expert in combined heat and power (CHP), renewable energy, heat law and contracting. Another focus of his practice includes on-site supply of energy as well as the supply to urban neighbourhoods.

**Astrid Meyer-Hetling** advises clients in and out of court on all matters of concession law and grid takeover procedures covering all types of energy. She is a lawyer with particular expertise in energy and company law, acting for clients in numerous proceedings in this context.

**Dr. Thies Christian Hartmann** deals with all aspects of energy law and general contract drafting. His current focus is on special grid connection and grid usage situations such as closed distribution networks, pooling, the exclusive use of operational resources as well as atypical and intensive grid users. He advises companies from the industrial sector as well as the traditional energy industry.





**Wolfram von Blumenthal**, specialist lawyer for commercial and company law, is a proven expert on corporate transactions, mergers and acquisitions (M&A). His work includes advice on cooperation projects, joint ventures, restructurings and tendering procedures. He also acts as managing director of BBH Immobilien GmbH & Co. KG.

**Daniel Schiebold**, specialist lawyer for administrative law, focuses in particular on (waste) water industry law as well as municipal consulting and municipal law. He is also an expert in electricity and energy tax law.

Tax advisor **Sabine Böck** supervises the law firm's internal accounting system and is an expert in income tax law, annual financial statements, partnerships and international tax law.

Our Partner of Counsel **Christoph Edler von Weidenbach** focuses on copyright and media law. In his legal practice, he also advises clients on all matters of publishing law, the protection of industrial property rights and internet law.



# WORKING TOGETHER TO SUCCEED.



**Matthias Pöhl**, lawyer, deals with all aspects of concession law, advising numerous energy supply companies and municipalities in concession and (re-)municipalisation procedures as well as grid takeovers. His legal practice also includes assistance in projects aimed at implementing cooperations as well as advice on further questions arising in the context of operating energy infrastructure facilities.

**Nils Langeloh** is a specialist lawyer for copyright and media law and responsible for our copyright practice. In this context, he advises numerous companies from various sectors with a special focus on collecting societies and publishing houses, artists and advertising agencies. Nils Langeloh also advises clients on competition, trademark and data protection law issues.

**Dr. Roman Ringwald** is in charge of our advisory practice relating to procurement law. His core activities include the project management of large tenders for municipalities and municipal companies with a view to actively shaping the energy and transport transition.



**Dr. Ines Zenke**, specialist lawyer for administrative law, advises energy and industrial companies on a pragmatic approach to the rising flood of regulations and also assists them in resolving disputes. Her main focus is on litigation and advice in the context of energy, environmental, infrastructure and antitrust law as well as arbitration procedures. She is also a distinguished compliance and policy advisor.

**Prof. Dr. Christian Theobald** is an expert in energy, antitrust and regulatory law. His legal practice focuses on advising, among others, municipal sector clients on concession procedures and grid takeovers. In his position as honorary professor at the German University for Administrative Sciences Speyer (Deutsche Universität für Verwaltungswissenschaften Speyer), he focuses on the public economy as well as all questions relating to energy policy, industry and law. In addition, Prof. Dr. Theobald is publisher and editor of various renowned specialist journals.

# SETTING STANDARDS.

Digitisation has given rise to fundamental questions in the area of licensing rights. In particular, the so-called GEMA assumption – which requires that anyone who publishes works created by others must disclose their authorship – has attracted vigorous criticism. We acted as legal counsel in the court proceedings which ultimately upheld the GEMA assumption in the last instance, securing the ability of artists to earn a living from their work.

That a legal dispute about a single CD can have a decisive impact on licensing law was demonstrated in the proceedings against “Musikpiraten” (Music Pirates). This association had published a CD containing a piece of music whose author it refused to disclose to GEMA, and for which it also failed to pay the applicable licensing fees. The association claimed that the artist had worked under a pseudonym and had allowed the track to be used based on a Creative Commons licence. However, pursuant to the GEMA assumption, Musikpiraten would have been obliged to provide evidence that GEMA had not been assigned any copyrights for the track in question. For GEMA to verify the matter by checking the Creative Commons licence, the author’s true name would have had to be disclosed. As the court of last instance confirmed, authors’ real names must be disclosed even if they published their works under a pseudonym.

This judgment represented a landmark in licensing law, safeguarding fundamental values: Rights of authors can only be enforced and unlicensed usage condemned on the basis of the GEMA assumption, which thus ensures that artists and publishers receive fair remuneration for any use of their work. Authors’ livelihoods and the pursuit of creative musical work as a whole rely on this assurance. The legal proceedings surrounding the GEMA assumption demonstrate that it is necessary to adjust to changing realities in order to preserve values over time.

We are not only a leading law firm in the field of energy law, but have continually set standards in copyright and publishing law as well, which proves that the impact of our work reaches far beyond our core business. This is true of the energy and infrastructure industry as well, where 400 out of 900 large-scale suppliers rely on our supply contracts.



# GIVING OUR CLIENTS A VOICE.



Lawyer **Dr. Jost Eder** has wide-ranging expertise in energy-supply matters, including default and auxiliary supply (Ersatz- und Grundversorgung) and the Metering Point Operation Act (Messstellenbetriebsgesetz – MsbG). He also specialises in grid access issues, market communication and the implementation of unbundling requirements.

**Jan-Hendrik vom Wege**, lawyer, advises energy supply companies on all matters of energy law and assists start-ups in the implementation of new business models. He has particular expertise in smart metering, e-mobility and digitisation.





**Jürgen Tschiesche**, public auditor and tax advisor, provides municipalities and their entities with advice on structural matters and optimisations. He has a particular focus on company and tax law optimisations as well as on advisory work relating to the new municipal budget law (NKHR). Furthermore, he conducts audits of annual and consolidated financial statements (for energy suppliers and hospitals in particular).

In his practice as a sworn public auditor and tax advisor, **Manfred Ettinger** acts first and foremost for corporate enterprises and partnerships, for which he prepares the annual statements of accounts and conducts audits of annual financial statements. Further core areas of his work are tax returns as well as financial and payroll accounting and ongoing tax advice services.

# PRESERVING INDEPENDENCE.

In the wake of the environmental disaster in Fukushima, the German Federal Government decided to abandon nuclear energy. As a consequence, the affected power plant operators claimed substantial damages. As an independent law firm, we have decided to stand firmly alongside five federal states.

When we agreed to legally represent the states of Berlin, Brandenburg, Bremen, North Rhine-Westphalia and Rhineland-Palatinate in the constitutional complaint against extending the service life of nuclear power plants, no one could foresee the full implications of the proceedings. At that time, the federal states decided to object to the service life extension, which would have required the consent of the Federal Council in line with Germany's Basic Law. From the very beginning, we took the view that a legislative amendment of such scope could not be adopted without approval by the Bundesrat. We were also of the opinion that the power plant operators had held a dominant market position for years.

With the decision to phase out nuclear energy, the service life extension was de facto completely revoked. In addition to the immediate shut-down of eight nuclear power plants, all remaining plants are also scheduled to be decommissioned by 2022. The affected power plant operators therefore demanded damages to compensate for the profits they would have earned over the extended service life as initially defined. On 06/12/2016, the Federal Constitutional Court finally confirmed that the nuclear phase-out decided on in 2011 was in line with Germany's Basic Law. According to the court, the operators are not

entitled to damages but only to an adequate compensation. In these landmark proceedings, we successfully represented the federal states of Bremen, North Rhine-Westphalia and Rhineland-Palatinate.

Finding suitable repositories for nuclear waste will occupy us for a substantially longer period, along with the question of how to ensure that the selection process for radioactive waste storage sites involving the public is in line with the rule of law. It still remains to be seen which role nuclear energy will play at European level in the future. We are of the opinion that nuclear energy is an outdated technology. And there are good arguments for this view.

The environmentally friendly use of gas also plays an important role in the energy transition, and in this area we advise the Republic of Albania on a project which is pivotal to ensuring future gas supply in Europe: the Trans Adriatic Pipeline. We were involved in all negotiations concerning the investment protection agreement and the international treaty, from the initial drafts to the final versions. Today, many of our clients draw on our advice in the context of the major project of switching from low-calorific gas to high-calorific gas.



WE REPRESENT  
NOT ONLY INTERESTS,  
BUT VALUES.

Lawyer **Axel Kafka** is an expert in energy law and focuses his practice on issues concerning the regulation of network industries as well as grid takeovers and concession agreements. He also specialises in antitrust law, telecommunications and waste law.

**Matthias Albrecht** is an experienced lawyer specialising in energy and antitrust law. His practice focuses on advising energy-intensive companies (decentralised energy supply, contracting, energy efficiency), abuse control under antitrust law and district heating.

**Jörg Kuhbier** served as a senator in Hamburg for many years and has worked as a lawyer since 1991. He is honorary chairman of the executive board of the foundation "Stiftung OFFSHORE-WIND-ENERGIE" and member of the Hamburg Constitutional Court. In 2013, he joined our Hamburg office as Partner of Counsel.

# INDEPENDENCE MEANS THE FREEDOM TO TAKE SIDES.



Our Partner of Counsel **Folkert Kiepe** is a former long-standing member of the German Association of Cities and a highly distinguished expert for urban development, building law as well as the planning and financing of transport infrastructures. In his work as a lawyer, he has also gained extensive practical experience in municipal administration.

Lawyer **Dr. Christian Jung** advises public services providers and transport companies on the appropriate legal and tax framework for their transport services. His expertise further extends to the structural organisation of transport companies and municipal utility groups in terms of optimising the awarding of contracts. Dr. Jung also provides advice on the construction and financing of operational facilities for local public transport companies and other public infrastructure facilities.

**Dr. Ursula Prall** is a lawyer and chair of the executive board of the foundation "Stiftung OFFSHORE-WINDENERGIE". Her legal practice focuses primarily on the legal and political aspects of promoting offshore wind energy and other renewable energy sources. She specialises in issues of environmental, planning and licensing law. Dr. Prall has authored numerous publications on the subject of renewable energy.



As a lawyer and tax advisor, **Oliver Eifertinger** advises energy supply companies and municipalities on energy, company and tax law issues, especially in the context of electricity, gas and district heating grids. He also advises investors on investment projects in Germany and abroad.

**Dr. Max Reicherzer** is a specialist lawyer for administrative law. His extensive expertise in the areas of construction and planning law as well as urban development contracts is sought by many municipalities and companies of the real-estate industry. He focuses his legal practice on projects aimed at safeguarding the creation of regional added value as well as on advising clients in the context of contractual matters related to planning projects. Dr. Reicherzer is also highly regarded as an expert on legal issues concerning the municipal economy.

Lawyer **Dr. Erik Ahnis** advises (municipal) energy supply companies on all aspects relating to grids and sales matters, with a particular emphasis on the gas sector. In this context, he focuses, among others, on the establishment of quality standards and the further development of business processes. In addition to energy contract law, he also specialises in consumer protection.





Lawyer **Stefan Misling** is an expert in electricity and gas grid regulations. He also advises on environmental and planning law, particularly on matters relating to energy supply lines and energy concepts.

**Thomas Straßer**, public auditor and tax advisor, focuses on the valuation of companies, supply networks and energy generation installations. He is a specialist in financial modelling and performs special audits, due diligence investigations, evaluations of risk management systems, calculations of (waste) water fees and audits of annual and consolidated financial statements.

Lawyer **Dr. Olaf Däuper** focuses on a variety of aspects relating to the German energy transition, advising clients particularly on matters in connection with power plants/electricity generation, the gas industry and heat transition. He is also the firm's expert for all issues relating to the nuclear phase-out.

**Jürgen Gold** is a public auditor and tax advisor. He specialises in auditing energy supply companies, and his expertise also includes the unbundling of accounts as well as the regulation of grid charges.

# INTEGRATED EXPERTISE.

Our interdisciplinary approach has proven itself successful. Our comprehensive network enables us not only to provide solutions on isolated matters of law, but also to shed light on the surrounding economic and technical context in order to develop long-term solutions.

We work in particularly close cooperation with invra Treuhand AG, whose services complement our competencies in important areas, with a portfolio encompassing auditing, tax and business consulting, financial and payroll accounting as well as bookkeeping and trusteeship. Private businesses, municipal enterprises and special-purpose associations, foundations and institutions under public law put their trust in invra, whose advisory services also extend to our international clients. As a member of AGN International, invra has a global network of accounting and consulting firms at its disposal.

Becker Büttner Held Consulting AG is another member of the BBH Group, offering comprehensive energy consultancy services.

Our clientele numbers more than 450 mostly municipal energy supply companies as well as several hundred commercial and industrial clients, including, for example, almost all major commercial airports in Germany. All our clients

benefit from an approach in which the developed solutions are put into practice jointly. The Trans Adriatic Pipeline project is one example of this highly productive cooperation with our consultants, where we have contributed not only our specialist knowledge in international law, but also our technical expertise. In this context, we provide support in the development of a gas market in Albania – one of the biggest gas infrastructure projects in Europe.

Through BBH Immobilien GmbH & Co. KG, the BBH Group also assists clients from the real-estate industry in project development matters.

Cooperations with academic institutions and working groups further complement our network. As an AEEC (Associated European Energy Consultants) member, we are extraordinarily well connected also at an international level.

This mutual exchange adds to the strengths of everyone involved – to the benefit of our clients.



**Dr. Dörte Fouquet** has been active in Brussels since the beginning of the 1990s, with a primary focus on the European institutions. As a distinguished lawyer specialising in energy and environmental law, Dr. Fouquet works to promote the development of a sustainable and pluralistic energy and infrastructure industry enshrined in European law. A major part of her practice involves providing advice on issues relating to the nuclear phase-out and the initiation of a comprehensive reform of the Euratom Treaty.

**Dr. Christian de Wyl**, lawyer, advises in the fields of grid access and sales. His comprehensive expertise further extends to company and contract law, unbundling, e-mobility and assistance with cooperation projects.





# A LOCAL PRESENCE.

We attach great importance to close relationships and geographic proximity to our clients and have established a strong presence in Germany with our offices in Berlin, Munich, Cologne, Hamburg, Stuttgart and Erfurt. Furthermore, our location in Brussels helps us intensify our collaboration with the European institutions.

**Our Berlin office** is situated directly at Alexanderplatz in a historical art nouveau building. From here, we serve our clients in Berlin and the eastern federal states. Moreover, our largest office advises clients all over Germany on numerous infrastructure matters. Another core activity in the capital is, of course, policy advice.

**From Munich, the location of our second headquarters** near Theresienwiese, we mainly serve the southern German energy industry, with a special focus on business management consulting, company law as well as copyright and media law. We also coordinate our auditing activities across Germany from our Munich office.

**From our Cologne office**, situated on the banks of the Rhine, we serve the economic heart of the German Federal Republic that is the Rhine and Ruhr region. Here we provide the energy and infrastructure industry with a full service offer. Cologne and Berlin are also the headquarters for our public transport experts.

Located in a traditional Hanseatic warehouse, **our Hamburg office** is particularly renowned for its

expertise in offshore wind power, offshore grids, environmental and planning law as well as in all maritime matters. From here, we also offer a wide range of services to the energy industry in Northern Germany.

**Our main field of practice in Stuttgart** is our long-standing consulting for municipalities and clients in the municipal energy supply sector, with a particular emphasis on tax and business management issues as well as auditing. In addition, our Stuttgart office focuses on providing advice to hospitals and the entire healthcare sector.

In **Erfurt**, we advise clients of all types and from across all industries, with a special focus on the public sector. Our Erfurt office is situated near the historical park "Hirschgarten" in the immediate vicinity of the Thuringian State Chancellery.

In **Brussels**, we are a prominent law firm advising companies and institutions alike on all matters of European law. One of our core practice areas in Brussels is also our international consultancy service, which extends to all of Europe and beyond.

## **LEGAL NOTICE**

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