Shale Gas

OVERVIEW

The Shale Gas Practice Group is a subset of the Eckert Seamans Energy Group. This group provides clients with a broad array of legal skills and government/business experience to help them successfully achieve their business goals from inception to operation, and all steps in between, for matters associated with shale gas exploration, production, and delivery.

Our energy attorneys are attuned to the rapidly changing regulations associated with Marcellus Shale as well as other shale plays development. We counsel our clients on local, state, and federal regulatory matters, as well as commercial and transactional, intellectual property, labor and employment, environmental, and complex litigation matters. We practice before federal and state public utility commissions and environmental agencies as well as other federal and state agencies.

Eckert Seamans attorneys provide counsel regarding the negotiation of oil and natural gas and other mineral leases; farmout of natural gas leases for deep well development; well drilling syndication; federal and state oil and gas permitting, permit appeals, compliance, and enforcement issues; the acquisition, disposition, and financing of oil and gas facilities, properties, and equipment; corporate and partnership structuring; transportation, storage, and distribution contracts; and private placements for syndicated ventures.

We have served as general outside counsel to one of the largest private oil and natural gas production companies east of the Mississippi River. Eckert Seamans attorneys provide advice and assistance to one of the leading shale gas best practices and certification organizations comprising shale gas producers, nongovernmental organizations, and leaders in business, philanthropy, and academia. Our attorneys have also advised clients in the area of royalty compensation and computation, including the Pennsylvania Supreme Court's recent interpretation of Pennsylvania's minimum royalty act with respect to oil and gas leases.

REPRESENTATIVE MATTERS

CONSTRUCTION

- Develop project delivery systems and negotiate contracts; mediate, litigate, and arbitrate claims that arise from the development of underground construction projects, including natural gas pipeline work; gathering and transmission plants and stations; and processing, including fractionation, dehydration, and compression plants.

ENVIRONMENTAL LAW

- Assist clients with compliance, enforcement, permitting, and permit appeals, government rulemaking, responding to information requests, strategic planning, and other matters that are subject to state statutes and federal counterpart programs, including the Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Clean Air Act, Clean Water Act, Toxic Substances Control Act (TSCA), Emergency Planning and Community Right-to-Know Act, Safe Drinking Water Act.
- Counseled a client in connection with water withdrawal permitting and enforcement matter before the Susquehanna River Basin Commission, and submitted comments to the Pennsylvania Department of Environmental Protection in connection with the previously proposed and now final Total Dissolved Solids (TDS) limits specific to produced water from the hydraulic fracturing process.
- Advise clients that service the oil and natural gas industry, including those in the development of wastewater reuse or discharge upon meeting Part A standards.
- Advise clients on a variety of issues associated with site development, including oil and gas regulations as well as remediation through Pennsylvania's Underground Storage Tank Program and Act 2 site remediation; National Pollutant Discharge Elimination System (NPDES) permitting; Erosion and Sedimentation (E&S) plans; Best Management Practices (BMPs); and wetlands

permitting, including associated wetlands air issues, mitigation, and credits.

- Defend clients in connection with environmental enforcement actions and toxic tort related litigation in local, state, and federal courts at both the trial and appellate level.

REAL ESTATE & LAND USE

- Represent clients at local agency hearings such as zoning hearing board or municipal commission hearings, on appeal to the courts of common pleas, and on further appeal to the intermediate appellate courts.
- Successfully defeated, on behalf of a property owner, a proposed municipal ordinance that would have limited the ability to drill in the Marcellus Shale.
- Represent oil and natural gas companies before such boards and commissions and have successfully handled various energy-related issues in these forums, including issues associated with oil and natural gas development and preemption issues.
- Represent natural gas companies in the development, leasing, acquisition, and sale of oil and gas fields in the Marcellus Shale and Utica Shale regions. Our attorneys have experience in drafting the operative documents for these transactions, including purchase and sale agreements, assignments of leases and wells, and title clearance matters.
- Assisted a long-established, family-owned Pennsylvania gas company to sell its holdings upstream to companies that intend to develop the Marcellus Shale. Drafted, reviewed, and negotiated gas lease surrenders, releases, and assignments to effectuate the sale. Eckert Seamans also resolved numerous gas lease title disputes and defects, including filing quiet title actions and resolving disputes with landowners.
- Assisted conventional gas developers to sell the deep rights of their oil and gas holdings to a Texas gas company that desired to participate in the Marcellus Shale play. Our representation included drafting the purchase and sale agreement, assignments of leases and related closing documents, and assisting in the resolution of leasehold title issues.
- Assisted a large regional gas company to update and revise its basic oil and gas lease forms for use in leasing and drilling Utica Shale properties.
- Represented clients in a breach of contract action, in which the clients claimed that the gas developer failed to comply with its agreement to develop Marcellus Shale gas wells. We assisted the client in settling the action favorably, and resolving various other issues between the parties in their ongoing business relationship.
- Assisted gas company clients in defense of claims that they failed to develop certain oil and gas leases in accordance with the implied covenant. We obtained summary judgment for the clients in a case which could have cost them tens-of-millions of dollars.

UTILITIES

- Provide advice to producers concerning negotiated rates and terms and conditions of natural gas gathering service agreements with Pennsylvania Public Utility Commission (PaPUC), regulated natural gas distribution companies (NGDCs), and preparation of such agreements.
- Advise producers regarding natural gas metering and telemetry measurement issues and agreements with NGDCs and Federal Energy Regulatory Commission (FERC) regulated pipelines.
- Initiated litigation that resulted in these previously non-tariffed services being included in NGDC tariffs so that the producers obtained the protections afforded from PUC-regulated rates, and the development of programs and initiatives to enhance production of local natural gas in Pennsylvania.
- Helped producers investigate and raise issues about the levels of “Lost and Unaccounted For” gas and “shrinkage” (or retainage) and the related provisions of NGDC tariffs.
- Litigated the scope of PaPUC jurisdiction over independent producers’ wholesale natural gas agreements with NGDCs and the interpretation of specific terms of such agreements.
- Defeated an attempt by an NGDC to have the PaPUC investigate an independent producer’s costs of operation to determine a “just and reasonable” wholesale price for the sale of the gas to the utility.
- Advised the industry concerning the scope of PaPUC jurisdiction over natural gas midstream

(gathering) pipelines, including safety, eminent domain, siting, interconnection and rate issues, and gathering agreements.