Utilities

OVERVIEW

The Utilities Group is dedicated to addressing the unique needs of regulated utilities and the companies that interact with them in the electric, telecommunications, gas, water, and transportation industries.

Utilities and other companies operating in the regulated world need experienced attorneys at both the state and federal levels. When it comes to engaging transactional, litigation, and other counsel, our clients value lawyers with well-rounded knowledge and expertise in both the industry and the policy/regulatory environment in which the regulated company operates. We provide clients the opportunity to engage a single law firm across the firm's geographical and practice discipline boundaries by presenting a team that knows the client's industry, business, and particular legal needs, in a footprint that covers Delaware, Washington, D.C., Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia. And we do so at very reasonable rates.

The Utilities Group represents major telecommunications, energy, and water utility companies before state and federal regulatory agencies and courts and provides legal advice concerning numerous aspects of clients' business activities. With acknowledged competency in the field, the firm's regulatory lawyers are closely involved in the restructuring of the telecommunications, natural gas, and electric industries. Additionally, the group is highly experienced in compliance, licensing, ratemaking, and litigation issues involving all types of regulated companies – from water utilities, telecommunications, natural gas, and electric competitive suppliers to transportation companies.

REPRESENTATIVE MATTERS

Eckert Seamans' Utilities attorneys' breadth of experience positions them to counsel utility customers and utility service providers. The group's legal and business acumen allows them to assist both new entrants and incumbents in utilizing effective legal and regulatory strategies to compete successfully in emerging competitive markets. Illustrative matters the group's attorneys have handled include:

- Represented clients in a wide range of regulatory proceedings and litigation, both at the administrative and appellate level, and before state and federal commissions;
- Advised utilities and counter-parties on the regulatory and transactional issues associated with interconnection agreements, facilities and asset leases, right-of-way agreements, energy sales and purchase contracts, and tariff disputes;
- Represented private and municipal water, wastewater, and stormwater providers on regulatory matters and litigation before the Pennsylvania Public Utility Commission (PUC) and other regulatory entities, including rate and service cases, regulatory compliance, and consumer complaints;
- Represented natural gas distributor companies and natural gas suppliers in numerous rate and service proceedings and advised on regulatory issues;
- Actively participated in electric utility restructuring and default service proceedings before the Pennsylvania PUC, the Maryland Public Service Commission, and the New Jersey Board of Public Utilities. Our attorneys have been at the forefront of all electric restructuring activities and have significant experience in all areas of electric and natural gas industry restructuring and regulatory proceedings;
- Represented clients in litigation and other regulatory and judicial proceedings pertaining to the implementation of the Telecommunications Act of 1996 and in all aspects of the restructuring of the telecommunications industry nationally. Eckert Seamans represents several competitive local exchange companies (CLECs) in their efforts to offer competitive alternatives to resident and business telephone customers in numerous states using both legacy, emerging broadband, and "next generation" technology, such as voice over internet protocol (VoIP);
- Advised Internet providers and web server companies on regulatory and other issues, including

regulatory licensing and compliance;

- Litigated local matters in Maryland, Virginia, Pennsylvania, New Jersey, the District of Columbia, and Delaware, including:
    - obtaining and enforcing access to easements, property and network facilities, as well as infrastructure jointly used with other public service corporations;
    - protecting utilities' property rights, interests and values, including defending property owners' suits against transmission lines; advocating for broad rights in joint utility easements granted by state transportation departments; enjoining the unlawful use of infrastructure; and requiring developers, municipalities, and other landowners to pay their fair share of construction costs;
    - ensuring strict compliance with filed tariffs challenged by large commercial customers or counter-parties of electric utilities;
    - Litigated national or federal matters, including establishing right of utility to construct hydropower project, defense of class action involving easements, multi-forum power purchase and fuel supply agreement disputes, environmental liability cases, and breach of contract indemnification cases;
- Represented utilities and others in regulatory matters and litigation before the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the District of Columbia Public Service Commission, the New Jersey Board of Public Utilities, the Virginia State Corporation Commission, the New York Public Service Commission, the Illinois Commerce Commission, the Missouri Public Service Commission, the Utah Public Service Commission, the Oregon Public Service Commission, the Massachusetts Department of Public Utilities and the North Carolina Public Service Commission, including services territory expansion, required certifications, utility takeovers and acquisitions, and municipal authority reorganizations;
- Handled federal regulatory matters requiring extensive experience with the federal regulatory agencies relevant to utilities, including:
    - the Federal Energy Regulatory Commission ("FERC") complaints, FERC investigations, regulatory and compliance filings with FERC such as interconnection agreements, tariff disputes, and FERC market investigations;
    - the Federal Communications Commission ("FCC") microwave licensing and compliance process, FCC pole attachment disputes and FCC spectrum acquisition, leasing and sale transactions;
- Represented sellers and purchasers in preparing proposals and obtaining the regulatory approvals for the sale and/or transfer of assets or stock for a variety of entities and infrastructure.

The role of any law firm is not merely to react to changes in the law and the marketplace as they occur but also to anticipate those changes for its clients' benefit. Eckert Seamans is committed to providing maximum value to its utility and telecommunication clients by staying at the cutting edge of the legal and business issues affecting this highly dynamic industry sector.

SELECTED SPECIFIC INDUSTRY EXPERIENCE

Spectrum, FCC Licensing, and Related Regulatory and Transactional Matters

Members of the Energy/Utilities/ Group represent IOUs and other Critical Infrastructure Owners (collectively, "CIOs") in FCC spectrum licensing matters, including transactional matters involving the purchase and sale of spectrum, the sharing and leasing of spectrum, assignment of spectrum authorizations, regulatory compliance, internal due diligence matters, enforcement proceedings and dispute resolution matters before the FCC. Representative matters include:

- Representation in acquiring spectrum to support advanced metering and smart grid networks

through both FCC application processes and transactions with other spectrum licensees;

- Negotiation of agreements with other spectrum licensees and municipal organizations for shared use, sale, lease, and purchase of licensed spectrum to support advanced metering and smart grid networks;

- Provide strategic counsel to CIOs in structuring business transactions involving the assignment of licensed spectrum and other wireless infrastructure and assets;
- Advise CIOs on internal investigations and due diligence matters to ensure compliance with FCC regulations and policies governing spectrum use, including the crafting of FCC compliance manuals;
- Represent CIOs in dispute resolution and enforcement proceedings before the FCC involving use of licensed spectrum;
- Negotiate relocation and rebanding agreements from 2 GHz (AWS), 800 MHz (Nextel), 12.2 GHz (DBS), and other bands;
- Challenge unlawful retention of private land mobile licenses, and acquire same after license revocation;
- Negotiation of short-spacing agreements and prosecution of short-spacing complaints; Counsel regarding FCC/FAA tower lighting, tower painting, and tower relocation issues; Sale of, and counsel to purchasers of, radio tower assets;
- Representation of licensees in license forfeiture and notice of apparent liability proceedings;
- Negotiation of spectrum sharing arrangements between private land mobile operators and state and local governments, agencies, and first responders;
- Participation in FCC rulemaking proceedings related to non-commercial, industrial use of spectrum, including proceedings seeking to: reduce spectrum rights of private land mobile users, discontinue use of certain equipment types (Telex), or alter qualifications of licensees in particular bands;
- Counsel regarding licensing mistakes and anomalies discovered or caused by licensees, FCC, or lessees of spectrum;
- Advise CIOs on seeking new spectrum resources and obtaining new FCC licenses to support business operations.