

Administrative & Court Litigation

Wilkinson Barker Knauer has an extensive litigation practice that includes actions before numerous state and federal agencies and tribunals, including the Federal Communications Commission (FCC), Federal Energy Regulatory Commission (FERC), state public utility commissions (PUCs), and federal and state courts. The practice combines the strength of experienced litigators with significant subject matter expertise representing clients in this area and in government service.

FCC Litigation. The firm regularly represents clients in formal complaint proceedings and hearings before the FCC. For example, we have represented Qwest (now CenturyLink) in successfully litigating two precedent-setting Section 208 formal common carrier complaints against so-called “traffic pumpers.” We also have represented Comcast in program carriage hearings before an administrative law judge (ALJ), and, in this regard, successfully defended Comcast in the first program carriage hearing decision by an ALJ and in connection with the Commission’s adoption of the ALJ’s decision. In addition, the firm has represented clients in Enforcement Bureau investigations and forfeiture proceedings involving issues such as network outage reporting, universal service, payphone compensation, number portability, Customer Network Proprietary Information, data security, open Internet, rural call completion, telecommunications relay service, merger conditions, truth-in-billing, cramming, Telephone Consumer Protection Act, wireless E911, tower siting, wireless hearing aid compatibility, unauthorized operation and unauthorized transfer of control, auction collusion, digital television disclosures, indecency, Emergency Alert System, sponsorship identification, closed captioning, childrens television commercial limits, CALM Act, and communications equipment marketing.

FERC Litigation. The firm’s attorneys have litigated and settled numerous cases at FERC involving natural gas and electric issues. Our attorneys have represented interstate pipelines in fully-litigated rate proceedings under the Natural Gas Act. Our attorneys frequently represent natural gas local distribution companies and other market participants in interstate pipeline rate and certificate proceedings. With respect to electric matters, our attorneys have experience in contested rate and tariff proceedings filed by transmission owners and wholesale sellers of electric power and disputes involving wheeling arrangements and obligations under the Public Utility Regulatory Policies Act. We are also experienced in complaint proceedings concerning regional electric power markets.

State PUC Litigation. The firm has extensive experience litigating before PUCs in numerous jurisdictions. We regularly represent investor-owned utilities in rate cases and rate design proceedings, obtaining certificates of public convenience and necessity, integrated resource plans, tariff filings, complaint cases, merger dockets, and other litigated regulatory proceedings. We have successfully litigated contested PUC cases and obtained regulatory approvals required for the sale of telephone exchanges, the transfer of a directory publishing entity owned by an RBOC, and the disposition or encumbrance of various other utility assets subject to PUC jurisdiction.

Court Litigation. Before federal district courts and in arbitration proceedings, the firm has handled Section 253 right-of-way litigation, franchise litigation, and intercarrier compensation disputes (including VoIP-in-the-middle access charge litigation and SS7 signaling disputes), and also have litigated cost-of-service disputes in the energy arena. The firm also regularly represents clients before various United States Circuit Courts of Appeals in matters arising from FCC rulemaking and adjudicative proceedings, running the gamut of communications

HIGHLIGHTS

Ranked as a “top tier” firm by US News/Best Lawyers, Chambers and Legal 500

Litigators experienced in state and federal agencies, and in the federal courts

Recent successes include program carriage and traffic pumping cases

and administrative law issues. For example, the firm recently successfully represented Qwest (now CenturyLink) before the D.C. Circuit in supporting a challenge to an FCC decision declining to forbear from regulation in one case, and in supporting the FCC's grant of formal traffic pumping complaints in two other cases.

In the energy space, the firm has successfully argued in the United States Courts of Appeals for reversal of FERC orders regarding the Natural Gas Act and Natural Gas Policy Act. We also frequently represent energy and natural resource clients in seeking declaratory orders and litigating under state administrative procedure acts.