

Pole Attachment and Infrastructure Deployment Litigation and Counseling

Wiley has unmatched experience representing communications companies in negotiations and disputes over the rates and terms of access to utility poles, underground conduit, streetlights, and other infrastructure owned by power companies, electric cooperatives, and municipalities. For nearly two decades, our lawyers have advocated for incumbent local exchange carriers, competitive local exchange carriers, wireless companies, broadband providers, and communications trade associations in negotiations, litigation, and regulatory proceedings at the state and federal levels.

Our lawyers stand ready to assist with all joint use, pole attachment, and infrastructure deployment matters, including:

- **Contract negotiations.** Our attorneys have negotiated scores of pole attachment agreements, license agreements, and joint use agreements with investor-owned companies, electric cooperatives, and municipal utilities nationwide. We have helped our clients modernize their agreements to save costs, speed deployment, and reflect current-day operational realities.
- **Rental rate analysis and strategy.** In 2011 and 2015, the FCC reduced the pole attachment rental rates that may be charged broadband providers, including incumbent local exchange carriers, competitive local exchange carriers, and wireless providers. We have helped our clients obtain the significant rental rate savings that they are entitled to through negotiations and strategic litigation. We also regularly review invoiced rental rates for compliance with FCC and agreed-upon rate methodologies.
- **Wireless deployment issues.** We work with wireless providers to speed the deployment of facilities in the rights-of-way by negotiating, litigating, and supporting regulatory changes on issues relating to pole-top access, rental rates and access fees, make-ready timelines, and local zoning restrictions.
- **Strategic consulting.** We advise communications companies on all issues relating to pole attachments and joint use, including day-to-day operational issues and long-term strategic decisions. We regularly counsel clients about their rights under the federal Pole Attachment Act, 47 U.S.C. § 224, federal statutes relating to the deployment of wireless facilities, 47 U.S.C. §§ 253 and 332, and state law.
- **Pole survey planning and implementation.** We negotiate the terms of joint pole audits and surveys to ensure that appropriate data is collected, that costs are contained, and that protections are in place to ensure accurate results.

- **FCC Pole Attachment Complaint Proceedings.** Our lawyers have successfully prosecuted Pole Attachment Complaints before the FCC's Enforcement Bureau.
- **State Regulatory Proceedings.** We have protected our clients' rights to access utility infrastructure at reasonable rates in regulatory proceedings before state commissions throughout the country.
- **Rulemakings and other advocacy before the FCC and state regulatory commissions.** Our lawyers provide strategic advice about rulemakings at the FCC and before state commissions, file comments, and otherwise advocate for a regulatory regime that ensures timely and affordable deployment of wireline, wireless, and broadband facilities.
- **Advocacy before municipalities and local zoning authorities.** We seek to overcome local roadblocks to deployment through negotiations with local authorities and, when necessary, litigation.
- **Mediation and Arbitration.** Our lawyers have used their alternative dispute resolution experience to avoid litigation and obtain rate reductions through mediation and arbitration.
- **Litigation.** We have successfully litigated pole attachment, joint use, siting, and other infrastructure disputes in state and federal courts nationwide.
- **Appeals.** We are currently supporting the FCC at the U.S. Courts of Appeals for the Ninth and Eleventh Circuits as it defends two critical wireline and wireless deployment orders that were released in 2018. We previously successfully defended the FCC's pathmarking 2011 Pole Attachment Order before the U.S. Court of Appeals for the D.C. Circuit and the FCC's 2015 amendment to the telecommunications pole attachment rental rate formula at the U.S. Court of Appeals for the Eighth Circuit.

Contact Us

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