

Rights-of-Way Litigation and Counseling

Wiley has long been involved in litigating issues under 47 U.S.C. § 253, which provides for federal preemption of state and local actions or requirements that prohibit or have the effect of prohibiting the provision of telecommunications services. Section 253 is an important protection for telecommunications companies and others, such as wireless carriers or cable companies, that seek to use any public rights-of-way to enable them to provide communications service.

Wiley litigates against municipal governments that may be attempting to exceed their limited authority, and we represent *amici* in cases across the country. Among our notable cases, we secured the first court of appeals opinion striking down gross revenue fees under Section 253. *Puerto Rico Telephone Co. v. Municipality of Guayanilla* (1st Cir.). We successfully defended a major telecommunications company against a lawsuit by the City of Rome, New York challenging the company's historical right—granted by the city in 1912—to access and use the rights-of-way. *City of Rome v. Verizon* (N.Y. App. Div., 4th Dept.). And we represented the wireless industry before the *en banc* Ninth Circuit, both in briefing and at oral argument, in a case examining the application of Section 253 to the wireless tower siting context and revisiting essential principles of federal telecommunications law. *Sprint Telephony PCS v. County of San Diego* (9th Cir.).

We also provide counseling services to clients negotiating with municipal governments over rights-of-way access and fees, and handle offensive and defensive litigation against local governments when negotiations fail to secure an agreement that abides federal law.