

# JOHN W. PESTLE



## Contact Information

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## Education

University of Michigan Law School  
Ann Arbor, Michigan  
J.D., *magna cum laude*, 1975  
Order of the Coif

Yale University  
New Haven, Connecticut  
M.A., *magna cum laude*, 1972

Harvard College  
Cambridge, Massachusetts  
B.A., *magna cum laude*, 1970

## Legal Employment

Varnum  
Grand Rapids, Michigan 1975  
Partner  
Chair, Cable and Telecommunications Practice Group

## Areas of Practice

Communications, utility and energy law, including Federal Communications Commission and Michigan Public Service Commission matters.

## Description of Practice

Represent municipalities and others on cable TV and telecommunications matters, including franchising, refranchising, rate regulation, Wi-Fi, FCC licensing and the creation and operation of municipally owned systems.

Represent municipalities and landowners on cell tower and WiMAX tower leases and zoning.

Represent municipally and cooperatively owned electric and other utilities.

Represent energy users such as municipalities and private companies on electric energy purchase and sale matters.

## **JOHN W. PESTLE**

Past Chair, Municipal Lawyers Section of State Bar of Michigan and Past Chair of Legal Section of American Public Power Association.

### **Professional Affiliations**

Federal Communications Bar Association

State Bar of Michigan (Public Corporation Law Section, Governing Council, 1984-1991; Municipal Utilities Committee, Chairman, 1985-1988; Public Corporation Law Section, Chair, 1990-1991; Vice Chair, 1989-1990, Secretary/Treasurer, 1988-1989)

American Public Power Association (Legal Section, Chair, 1986-1987; Vice Chair, 1985-1986)

State Bar of Michigan Foundation

Grand Rapids Bar Association

International Municipal Lawyers Association (Technology and Franchise Section, Chair, 2007-2009; Municipal Contracts, Vice Chair, 2004-2006; Legislative Advocacy Committee, Ad Hoc Member, 2004-2006))

Michigan Association of Municipal Attorneys (Professionalism and Education Committee, 2005-2007)

National Association of Telecommunications Officers and Advisors (Fiber to the Home Committee on telephone company provision of cable service, Chair, 2005; FCC Liaison Committee, 1994-1996)

Federal Energy Bar Association (Cogeneration & Small Power Production Committee, 1984-1989)

Cogeneration Journal (Editorial Board, 1986-1989)

Energy Bureau, Inc. (Advisory Board ,1987-1989)

### **Licenses**

FCC First Class Radio Telephone Operator License with Ship Radar Endorsement, required to perform engineering and technical work on radio station, TV station and maritime radar transmitters and antennas (1966-1971)

### **Community Activities**

Hilltop House (assisted living facility), Brattleboro, VT (Board Member, 2008-present)

Harvard Glee Club Foundation (Trustee, 1987-Present)

Child and Family Resource Council, Grand Rapids, MI (child abuse prevention organization) (Board Member, 2001- 2008; Member of Executive Committee and Secretary, 2004-2008).

Blodgett Memorial Medical Center Community Relations Board (1983-1988)

Blodgett Area Neighborhood Association (President, 1983-1987)

Harvard Club of Western Michigan (Secretary, 1976-1986)

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### Awards

2006 Special Award of Merit from the Michigan Municipal League for state and national work on behalf of municipalities to preserve local cable franchising and control over the public rights-of-way.

1996 Member of the Year Award from National Association of Telecommunications Officers and Advisors (NATOA) for work assisting municipalities on the Federal Telecommunications Act of 1996.

Ovation Award (1997 and 1995) and Certificate of Appreciation (1994) from NATOA for prior assistance to municipalities nationwide on telecommunications matters.

Listed in *Who's Who in America* and *Who's Who in American Law* (1987 and subsequent eds)

### Legal Publications

"Cogeneration, Small Power Production and the Financially Troubled Utility," *Biologue*, May 1984.

"Financing Alternatives for Cogeneration and Small Power Projects," *Hydro-Wire*, Vol. 5, No. 16, August 20, 1984.

"Power Sales: Small Hydro Projects and the Financially Troubled Utility," *Hydro-Review*, Vol. III, No. 3, Fall 1984.

"Utility Purpa Subsidiaries," *Hydro-Wire*, with William H. Smith, October 1984.

"Analysis of the Local Government Antitrust Act of 1984," *Public Corporation Law Section Newsletter*, with Jeffrey S. Rueble, December 1984.

"Hybud Equipment Corporation v. City of Akron," *Public Corporation Law Section Newsletter*, December 1984.

"Analysis of the Michigan Antitrust Reform Act," *Public Corporation Law Section Newsletter*, with William J. Lawrence III, March 1985.

"Utility Purpa Subsidiaries," *Strategic Planning and Energy Management*, Spring 1985.

"Michigan's Cogeneration Climate," *Alternative Energy Business News*, May 1985.

"An Analysis of Town of Hallie v. City of Eau Claire," *Public Corporation Law Section Newsletter*, with William J. Lawrence III, No. 2, August 1985.

"User's Need's Set Stage for Financing Internal Use Cogeneration Projects," *Cogeneration*, with Eric J. Schneidewind, January/February 1987, March/April 1987.

"Private Options for Developing Capital Facilities," *Privatization*, July 21, 1987.

"Be Aware of Issues Peculiar to the State--Cogenerators Warned," *Cogeneration*, July/August 1987.

"Municipal Choices: Three Ways to Build a Waste to Energy Plant," *Solid Waste and Power*, with Susan Wyngaarden, August 1987.

"Municipal Antitrust Law," *Michigan Municipal Law Supplement*, (University of Michigan, Institute of Continuing Legal Education, 1987).

"Finance and Service Alternatives for Municipalities," *Public Corporation Law Section Quarterly*, No. 4, October 1987.

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"Michigan Adopts ROW Legislation," *NATO A News*, Vol. 1, No. 5, April 2002.

"Michigan's Metro Act: One State's Solution to Telecommunications Fees and Permits," *Municipal Lawyer*, Vol. 45, No. 5, September/October 2004.

"The FCC's Emergency Alert System Rulemaking: Challenges and Opportunities," *NATO A Journal of Municipal Telecommunications Policy*, with Timothy Lundgren, Vol. 12, Issue 4, Winter 2004.

"Emergency Alert Systems-Local TV Station Violations," *Journal of the Illinois Institute for Local Government Law*, Vol. 2, No. 1, January 2005.

"Franchises Threatened by SBC, Verizon Providing Cable Services," *Journal of the Illinois Institute for Local Government Law*, with Timothy Lundgren, Vol. 2, No. 2, February 2005.

"Insight Cable May 'Go Private': Risks and Opportunities Created for Municipalities," *Journal of the Illinois Institute for Local Government Law*, with Timothy Lundgren, Vol. 2, No. 7, July 2005.

"Cable Franchises for Telephone Companies," *NATO A Journal of Municipal Telecommunications Policy*, with Tim Lundgren, Vol. 13, No. 3, Fall 2005.

"Cable Franchise Fees Not a Tax, Headlee Cable Class Action Dismissals Affirmed," *State Bar of Michigan (Public Corporation Law Quarterly)*, No. 3, Fall 2005.

"Federal Broadband Legislation: Municipal Concerns," *State Bar of Michigan (Public Corporation Law Quarterly)*, with Tim Lundgren, No. 4, Winter 2005.

"Federal Broadband Legislation: Municipal Concerns," *Municipal Lawyer (International Municipal Lawyers Association)* with Tim Lundgren, Vol. 47, No. 1, January/February 2006.

"Cable Developments Update: Cable Class Actions," *Public Corporation Law Section Quarterly*, No. 2, Summer 2006.

"FCC Announces Anticipated Cable Franchise Rules," *Municipal Lawyer*, Vol. 48, No. 1, January/February 2007.

"Cell Tower Backup Power Order," *State Bar of Michigan (Public Corporation Law Quarterly)*, No. 4, Winter 2007-2008.

### Representative Cases and Matters:

#### Cable TV and Telecommunications

Marquette Cablevision v City of Negaunee, (USDC, W.D. Mich., 1984 - 1992). Successfully represent City of Negaunee's municipally owned cable system in antitrust and First Amendment challenge by competing private cable company.

Grand Rapids, MI, Fiber Optic Loop, (1990 - 1992). Represent several Grand Rapids area communities in granting and enforcement of franchise for private fiber optic urban loop.

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Municipally Owned Cable Systems, (1990 - Present). Assist numerous municipalities in evaluating and implementing municipally owned cable systems.

City of Alpena, MI (1991 - 1992). Represent City in cable TV franchising and in rate regulation of TCI of Greater Michigan.

Michigan Telecommunications Act of 1991, (1991). Represent several Michigan municipalities in obtaining exemption from regulation in Act for municipally owned telephone and telecommunications systems.

City of Detroit, MI (1992 - Present). Represent City on numerous cable and telecommunications matters and on permitting of new telephone companies.

City of Southfield, MI (1992 - 1993, 1995 - 1997). Represent City on requests for franchise for private fiber optic urban loop, local telephone service, and related litigation.

City Signal v City of Auburn Hills, et al., (Oakland County, Michigan Circuit Court Case 92-442610-CZ, 1992 - 1993). Represent City of Southfield in obtaining dismissal of suit by private fiber optic urban loop company against 25 municipalities to compel court issuance of franchise.

City of Wyandotte (MI) Municipal Service Commission, (1992 - 1999). Represent City's municipally owned cable system on various cable, fiber optic and related matters.

Municipally Owned Fiber Systems, (1996 - Present). Represent various Michigan municipalities on matters relating to municipally owned fiber systems to serve City and/or public at large.

Cable Television Consumer Protection and Competition Act of 1992, (Publ. L. No 102-385, 106 Stat. 1460, 1992). Represent several municipalities and municipal groups in passage, amendments and override of Presidential veto of 1992 Cable Act.

Grand Rapids, MI, Cable TV Refranchising, (1992 - 1993). Represent three Grand Rapids area communities in cable TV franchising with TCI.

Village of Clinton, MI (1992). Represent Village in cable TV franchising.

C-TEC and Mercom Refranchising, (1993). Represent 54 communities in cable TV franchising with C-TEC and Mercom.

City of St. Joseph, MI (1993 - 1995). Represent City in cable TV franchising, transfer of franchise, rate regulation, and related cable matters.

City of South Haven, MI (1993). Represent City of South Haven in franchising with TCI.

FCC Cable Rate Regulation Rules, (1993 - 1994). Participate in FCC initial and revised rate regulation rulemakings on behalf of several communities.

FCC Cable Customer Service Rulemakings, (1993). Participate in cable customer service rulemakings on behalf of the City of Kalamazoo and other Michigan communities.

City of Alpena v Westmarc Development, et al., (USDC, W.D. Mich. Case 1:93-CV-164; 6th Circuit Case 94-1276, 1993-1994). Represent the City of Alpena in case to enforce its rate setting decisions made prior to the effective date of the 1992 Cable Act; City received refunds of approximately \$50 per subscriber.

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Detroit Cable Communications Commission v Barden Cablevision, (FCC, 1993 - 1994). Represent City of Detroit in Petition for Declaratory Ruling on franchise fee dispute between City and its cable operator, resolved in favor of City.

In re: City of Detroit, (FCC, 1993 - 1994). Represent City of Detroit in rebuffing challenge by its cable operator of the City's legal authority to regulate cable rates under the 1992 Cable Act and FCC regulations.

Cable TV Rate Regulation, (1993 - Present). Represent over 200 communities on cable TV rate regulation matters and FCC complaints and proceedings relating to same, including communities in the following areas:

- City of Grand Rapids, Michigan and adjacent communities
- City of Fort Worth, Texas and adjacent communities
- City of Jackson, Michigan and adjacent communities
- City of Midland, Michigan
- City of Port Huron, Michigan
- City of Romulus, Michigan
- City of Garden City, Michigan
- City of Milan, Michigan, City of Saline, Michigan and related communities
- City of Monroe, Michigan and Berlin Charter Township
- City of Muskegon, Michigan and adjacent communities
- City of Marquette, Michigan and most other Upper Peninsula communities with cable service
- City of Big Rapids, Michigan
- City of Charlevoix, Michigan and adjacent communities
- City of Niles, Michigan and adjacent communities
- City of Petoskey, Michigan and adjacent communities
- City of St. Joseph, Michigan and Benton Charter Township
- St. Joseph Township, Michigan and Lincoln Charter Township
- City of Saugatuck, Michigan and adjacent communities
- 85 communities served by C-TEC and affiliated companies
- City of Alpena, Michigan

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UACC Midwest v City of Kentwood, et al., (Kent County, Michigan Circuit Court Case 94-1383-CZ, 1994 - 1995). Represent the City of Grand Rapids, Michigan, City of Wyoming, Michigan and other communities on state lawsuit by cable company challenging the communities' rate regulation proceedings.

In re: TCI Cablevision of West Michigan, Inc., (FCC, 1994 - 1995). Represent City of Grand Rapids, Michigan, City of Wyoming, Michigan and other communities responding to TCI's appeal of and challenge to the communities' rate regulation orders.

City of Tecumseh, MI (1994). Represent City of Tecumseh in cable TV refranchising with TCI.

City of Niles, MI (1994). Represent City of Niles in cable TV refranchising with TCI.

City of Port Huron, MI (1994). Represent City in cable TV franchising with Harron Communications.

In re: City Signal, Inc. (Michigan Public Service Commission Case U-10,555, 1994 - 1995). Represent the City of Walker, Grand Rapids Township and other communities in their fiber optic loop carriers' petition to provide expanded telecommunications services in their communities and adjacent communities.

City of Arlington, TX (1994 - 1995). Assist City on fiber optic urban loop franchising.

Bresnan Franchise Transfer, (1994). Assist the City of Midland, Michigan and several Michigan Upper Peninsula communities on franchise transfer request by Bresnan Communications.

TCI/Liberty Merger and Transfer Waiver, (1994). Advise approximately 40 municipal clients on applicability of certain exemptions to FCC transfer requirements on pending Liberty/TCI merger.

City of Detroit, MI (1994). Represent the City on transfer of control of franchise from Barden Communications to Comcast.

Cities of Saline and Milan, MI (1994 - 1995). Represent Cities of Saline, Milan, and other Michigan communities in refranchising with Clear Cablevision.

City of Garden City, MI (1994). Represent the City on the transfer of its cable television franchise from Maclean-Hunter to Comcast.

City of Arlington, TX (1994 - 95). Represent the City on the transfer of its cable television franchise from Telecable to TCI.

City of Plano, TX (1994 - 95). Represent the City on the transfer of its cable television franchise from Telecable to TCI.

City of Livonia, MI (1994 - 95). Represent the City on the transfer of its cable television franchise from Metrovision to Time Warner/Advance Newhouse Partnership.

NATOA FCC Liaison Taskforce, (1994 - 1996). Member of FCC Liaison Taskforce of the National Association of Telecommunications Officers and Advisors.

Federal Telecommunications Act of 1996, (1994 - 1996). Extensive work with National League of Cities, U.S. Conference of Mayors, National Association of Telecommunications Officers and Advisors, and many municipalities nationwide to

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protect municipal interests in proposed 1994 - 1996 changes to Federal telecommunications law.

Grand Rapids, Michigan Communities, (1995). Represent City of Grand Rapids and eight other communities in authorizing new local phone company to compete with incumbent provider.

City of Fort Worth, TX (1995). Represent the City of Fort Worth and seventeen other Texas communities on proposed transfer of cable television franchises from Sammons Communications to Marcus Cable.

Clear Cablevision/Omnicom, (1995). Represent eight communities on transfer of cable television franchises from Clear Cablevision/Omnicom to Continental Cablevision.

Ameritech Cable Franchises, (1995 - 1997). Represent several Detroit area communities on award of cable television franchises to Ameritech New Media (subsidiary of local telephone company).

Michigan Telecommunications Act of 1995 Rewrite, (1995). Represent City of Detroit, City of Grand Rapids, and other Michigan communities on 1995 revisions to Michigan Telecommunications Act and on ordinances to implement the Act.

Video Dialtone Rulemaking, (1995). Represent over 50 communities nationwide filing comments in FCC proceeding to allow phone companies to provide "video dialtone" type cable service.

Satellite Dish Rulemaking, (1995 - 1996). Represent approximately 40 communities nationwide filing comments in FCC rulemaking which partially preempts local zoning and building codes for satellite dishes.

City of Batavia, IL, (1996). Assist City on legal aspects of establishment of new municipally owned cable and telecommunications system.

OVS Rulemaking, (1996). Submit comments to FCC on behalf of approximately 50 communities in support of municipal positions on new rules for Open Video Systems.

City of Garden City, MI (1995 - 1996). Represent City on overbuild cable television franchise with Ameritech. Generally regarded as most favorable franchise obtained by Michigan municipalities from Ameritech to date.

Telecommunications Ordinances, (1996 - 2001). Represent several major cities in Michigan in preparation and drafting of right of way telecommunications permit ordinances for telephone companies under the Michigan Telecommunications Act of 1996 and Federal Telecommunications Act of 1996 and on accounting and engineering studies to determine municipalities' fixed and variable costs of maintaining rights-of-way used by providers.

Metricom Franchise, (1996 - 2000). Represent the City of Detroit in franchising specialized wireless data telecommunications provider.

Brooks Communications - Video, (1996). Represent several Grand Rapids, Michigan, area communities in response to a request from Brooks Communications to provide video services.

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City of Southfield, MI (1996). Represent City of Southfield on proposed transfer of control of Continental Cablevision to U.S. West.

Cable Act Reform Rulemaking, (1996). Submit comments to FCC on behalf of approximately 50 communities nationwide on issues involved in FCC's Cable Act Reform rulemaking under Federal Telecommunications Act of 1996.

TCI Cablevision of Oakland (City of Troy), (1996). Represent 79 communities nationwide in comments and reply comments to FCC in case attempting to allow cable operators to effectively provide telecommunications services under cable franchises without paying franchise fees.

City of Westland, MI (1996 - 1997). Represent City in award of competing cable franchise to Ameritech New Media.

Cellular Tower Zoning/Leases, (1996 - Present). Provide model cellular tower leases and model cellular tower zoning ordinances to several hundred communities nationwide. Assist selected communities on leases and zoning matters.

Grand Rapids, MI, Area Communities, (1996 - 1998). Represent City of Grand Rapids and other area communities on request for second cable franchise by 21st Century Cable.

Tele-Media Communities, (1996). Represent Oscoda Township and other Michigan communities served by Tele-Media on proposed transfer to Time Warner Partnership.

City of Plano, TX (1997 - 2000). Assist City on cable television refranchising.

Bloomfield Township, City of West Bloomfield, MI (1997). Represent Township and City on the transfer of control of cable television franchise from Booth Communications to Continental/MediaOne.

Union CATV v City of Sturgis, KY 107 F3d 434 (6th Cir. 1997). File Amicus Brief on behalf of National League of Cities, U.S. Conference of Mayors, NATOA and Municipal Leagues of Ohio, Kentucky, Michigan and Tennessee. Help obtain ruling that courts will give substantial deference to a municipality's legislative determination of its future cable needs.

Cellular Tower Moratoria, (FCC Case DC 96-2140; FCC 97-264), (1997 - 1999). Successfully represent numerous communities nationwide in comments and filings at the FCC to oppose moratoria on new zoning permissions for cellular towers.

Southeast Oakland County (MI) Cable Cooperative, (1996 - 1997). Represent consortium of six cities on award of competing cable franchise to Ameritech New Media.

City of Kansas City, KS (1997). Assist City on selected telecommunications matters.

Leon County, FL (1997). Assist County on selected telecommunications and cellular tower zoning matters.

Cellular Tower Radiation, (FCC Case WT 97-197), (1997 - 2000). Represent numerous communities in comments and filings with the FCC opposing federal limits on municipal authority regarding RF radiation from cellular towers.

Texas Coalition of Cities on Franchised Utilities Issues (TCCFUI), (1997 - 2001). Provide FCC monitoring service and model cable franchises for TCCFUI.

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Village of Skokie, IL (1997 - 1998). Assist Village on negotiation and award of second cable television franchise to 21st Century Cable.

Broadcast Tower Preemption (FCC Case MM 97-192), (1997). Represent numerous communities nationwide in comments opposing FCC's preemption and abrogation of most state and local laws affecting TV and radio towers.

In re: Wedgewood Communications OVS Certification (FCC Cases DA 97-2304, DA 97-2355), (1997 - 1998). Represent City of Chicago before the FCC in obtaining dismissal of OVS certification filings by Wedgewood Communications Company.

In re: Chibardun Telephone Cooperative Petition for Preemption (FCC Case CC 97-219), (1997 - 1998). Represent numerous communities from across the country in comments to the FCC opposing Chibardun's request to preempt municipal franchising authority, and franchise terms and fees applicable to telecommunications providers, file Petition for Environmental Impact Statement on behalf of Michigan Municipal League.

Entertainment Connections, Inc. Petition for Declaratory Ruling (FCC Case CSR 4948), (1997 - 1999). Represent City of Chicago in opposing ECI Petition for Declaratory Ruling that cable company using telephone facilities does not need a cable franchise.

Numerous Michigan Communities, (1998). Represent approximately forty Michigan communities statewide on transfer of control of their cable franchise from C-TEC/Mercom to Avalon.

Model Cable Franchises (1998 - Present). Provide model cable franchises to over one hundred municipalities nationwide.

City of Fort Worth, TX (1998-1999). Represent the City and nineteen other Texas communities on the transfer of its cable television franchise from Marcus Cable to Charter Communications.

Broadcast Tower Environmental Impact Statement, (FCC Case MM 97-192) (1998). File comments on behalf of Cities of Denver, Detroit and others nationwide supporting National Audubon Society request that FCC prepare an Environmental Impact Statement before preempting state and local environmental laws applicable to broadcast towers.

City of Mesa, AZ (1998 - 2000). Special counsel for City on request for third citywide cable franchise by U.S. West.

FCC Emergency Broadcast System, Third Report and Order (FCC 98-329; FO Dockets 91-171, 91-301) (1998). Represent National League of Cities, municipalities and municipal groups from seven states in successfully opposing proposed preemption of local emergency alert messages on cable channels carrying local TV stations.

City of Grand Rapids, MI et al., (1998 - 1999). Represent City of Grand Rapids, City of Wyoming and other Grand Rapids area communities on franchise transfer from TCI to AT&T.

Cities of Plano, Richardson and Arlington, TX, (1998 - 1999). Represent the cities on transfer of their cable television franchise from TCI to AT&T.

City of Jackson, MI (1998 - 1999). Represent City on transfer of its cable system from MediaOne to TCI.

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City of Petoskey, MI (1998 - 1999). Represent City on transfer of its cable system from TCI to Bresnan Communications.

City of Duncanville, TX (1998 - 1999). Represent the City on the renewal of its cable franchise with Charter Communications.

Cities of Westland and Garden City, MI (1998 - 1999). Represent the cities on the transfer of their second cable television franchise from Ameritech to SBC Communications.

Cities of Champaign and Urbana, IL (1998 - 1999). Represent the cities on the transfer of their cable television franchises from Time-Warner to AT&T.

City of Livonia, MI (1999). Represent City on request for second cable franchise by Ameritech New Media.

City of Westland, MI (1999). Represent City on renewal of its cable franchise with MediaOne.

In re: CoServ OVS Application, (FCC Case DA 99-436) (1999). Represent City of Dallas, City of Fort Worth and other Texas cities in opposing OVS certification petition by CoServ.

City of Mitchell, SD (1999 - 2000). Represent City on award of second cable franchise to Dakota Telecom, Inc.

Grand Rapids, Michigan Area Communities, (1999 - 2001). Represent several Grand Rapids, Michigan area communities on coordinated cellular tower zoning and siting matters.

City of Petoskey, MI (1999 - 2000). Represent City of Petoskey on transfer of its cable license to Charter Communications and concurrent renewal with Bresnan/Charter.

Numerous Michigan Communities, (1999). Represent approximately forty-five Michigan communities statewide on transfer of their cable television franchise from Avalon to Charter Communications.

City of Southfield, MI (1999). Represent City of Southfield, Michigan on transfer of control of its cable franchise from MediaOne to AT&T.

City of Westland, MI (1999). Represent City of Westland, Michigan on transfer of control of its cable franchise from MediaOne to AT&T.

FCC Competitive Networks Proceeding, (FCC Dockets WT 99-217; CC 96-98) (1999 - 2000). File Reply Comments on behalf of communities representing 18 million people in nine states (a) opposing FCC preemption regarding telecommunications right of way, franchise fee and related matters and (b) opposing preemption on zoning, building codes and property matters relating to telecommunications dishes on buildings. File Petition for Environmental Impact Statement on behalf of National League of Cities, National Association of Counties, Texas Coalition of Cities on Franchised Utility Issues and Michigan Municipal League.

In re: Charter Communications, (FCC Case CSR-5329) (1999). Represent NATOA on Petition for Review of FCC ruling on request by Charter Communications to change procedures in franchise transfer matters.

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Oscoda (MI) Area Communities, (1999 - 2000). Represent communities in Oscoda area on transfer of control of their cable franchises from TW-Fanch to Charter Communications.

City of Madison, WI (1999 - 2000). Represent City of Madison on transfer of control of its cable franchise from Bresnan Communications to Charter.

Flint (MI) Area Chamber of Commerce, (1999 - 2000). Successfully represent Flint Area Chamber of Commerce before Michigan Public Service Commission in opposition to proposed overlay of new area code 586 over existing area code 810.

City of Belding, City of Wyoming, Grand Rapids Township Cell Tower Leases, (1999 - 2001). Represent Michigan municipalities on leases for cell towers on municipal property and sublease back of a portion of tower for municipal purposes.

Grand Rapids Area Refranchising, (2000 - 2001). Represent several Grand Rapids, Michigan area communities on cable refranchising with AT&T Cable.

City of Siloam Springs, AR (2000 - 2001). Represent City on cable refranchising with Cox Communications.

City of Mitchell, SD (2000). Assist City on cable refranchising with Midcon.

Michigan Municipal League, (2000). Represent Michigan Municipal League on advice and assistance on telecommunications franchising and right of way matters.

City of Livonia, MI (2000). Represent City of Livonia on transfer of control of its cable franchise from Time Warner/Advance Newhouse Partnership to America Online/Time Warner.

Grand Rapids Michigan Area Communities, (2000). Represent several Grand Rapids, Michigan area communities on award of second cable franchise and telecommunications consent agreement to Everest Communications.

Arlington, TX (2000 - 2001). Represent Arlington on award of cable franchise to potential second cable and Internet provider throughout the City.

Telecommunications Permit Agreements in Grand Rapids, Michigan Area (2000 - Present). Represent several Grand Rapids area communities on award of telecommunications right of way consent agreements and/or permits to several new telephone companies.

In re: Lake Cedar Group (FCC Case DA 00-764), (2000). File Comments and Petition for Environmental Impact Statement on behalf of National League of Cities, National Association of Counties, Texas Coalition of Cities on Franchised Utility Issues and numerous local governments in several states opposing Federal preemption of local zoning of broadcast towers.

In re: Coast to Coast Communications v City of Birmingham, Michigan Public Service Commission Case U-12354, (2000). Represent Michigan Municipal League as full intervener in initial case on fees chargeable by municipalities and permissible municipal permit terms and conditions for telecommunications providers under Michigan Telecommunications Act.

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Michigan Coalition to Protect Rights of Way, (2000). Represent Michigan Coalition to Protect the Rights of Way on several right of way related matters.

Flint (MI) Area Communities, (2000 - 2001). Represent ten Flint area communities on cable television refranchising with Comcast.

Town of Windsor, CT, Cellular Zoning, (2000). Assist Town of Windsor, Connecticut on requiring zoning approval for cellular tower on Federal property.

Cities of Champaign and Urbana, IL (2000). Represent the cities on the transfer of their cable television franchises from AT&T to Insight Communications.

City of Southfield, MI (2000). Represent City of Southfield on transfer of its cable television franchise from AT&T to Comcast.

City of Westland, MI (2000). Represent City of Westland on transfer of its cable television franchise from AT&T to Comcast.

Michigan Public Service Commission Right of Way Collaborative, (2000 - 2001). Represent City of Detroit in Michigan Public Service Commission right of way collaborative on fees municipalities may charge telecommunications providers and on permissible municipal permit terms for telecommunications providers under Michigan Telecommunications Act.

City of Forest Hills, TN (2000). Assist City of Forest Hills, Tennessee on cable television franchising and refranchising with several providers and dispute with county on appropriate entity to issue franchises.

Customer Service Matters, (2000 - 2002). Represent several cities in Michigan and in Texas on cable customer service related matters.

City of Mesa, AZ (2000). Assist the City of Mesa on award of franchise to potential new cable company, Wide Open West.

City of Portland, MI (2000). Assist City on ordinance governing new telecommunications providers.

In re: City Signal, Cleveland Heights, Wickliffe and Pepper Pike, Ohio Undergrounding Cases (FCC Cases CS-OO-253, 254 and 255), (2000 - 2001). File comments on behalf of National Association of Counties, National League of Cities and numerous municipalities nationwide opposing declaratory ruling to prevent municipalities from requiring telecommunications lines to be placed underground.

City of Portland, MI (2001). Represent City on award of telecommunications permit to competing telephone company.

In re: 616 Area Code Relief Plan, Michigan Public Service Commission Case U-12850 (2001). Successfully represent Grand Rapids Chamber of Commerce before Michigan Public Service Commission in opposing new overlay area code for area code 616.

Oscoda Township, MI (2001 - 2002). Represent Township on disputes over relocating Ameritech central office for failure to pay rent.

Cities of Bryan and College Station, TX (2001 - 2003). Represent cities on cable refranchising with Cox Communications.

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Town of Trophy Club, TX (2001-2002). Represent Town on cable refranchising with Charter Communications.

City of Portland, MI (2001). Represent City on cable refranchising.

City of Mesa, AZ (2001 - 2006). Special counsel for the City on concurrent renewal of cable franchises with Cox and with overbuilder Cable America, on related Cox litigation, on requests for franchise modification, and on later purchase of Cable America by Cox.

Public Act 48 of 2002 (Metro Act), (2001 - 2002). Represent City of Detroit on new statute creating Metropolitan Right of Way Authority for certain right of way matters and specifying permit required for telecom providers to use public rights of way, fees to be paid, forms of safe harbor permits and jurisdiction of Michigan Public Service Commission.

City of Garden City, MI (2001). Represent City of Garden City on transfer of second cable franchise from Ameritech New Media to Wide Open West.

City of Westland, MI (2001). Represent City of Westland on transfer of second cable franchise from Ameritech New Media to Wide Open West.

City of Denton, TX (2002 - 2005). Represent City on award of cable franchise to second cable company and on cable franchise renewal with Charter Communications.

Model Cable Customer Service Ordinance, (2002 - Present). Prepare and provide model cable customer service ordinance for use by municipalities nationwide.

City of Garden City, MI (2002). Represent City on transfer of its cable franchise from Comcast to AT&T Comcast.

City of Southfield, MI (2002). Represent City on transfer of its cable franchise from Comcast to AT&T Comcast.

City of Westland, MI (2002). Represent City on transfer of its cable franchise from Comcast to AT&T Comcast.

Genesee Area Communities, (2002). Represent ten Michigan municipalities on transfer of their cable franchise from Comcast to AT&T Comcast.

Metro Act, (2002 - 2004). Represent numerous communities on adopting ordinances implementing the Metro Act and on issuing Metro Act permits to telecommunication providers.

Grand Rapids Area Communities, (2002). Represent several Grand Rapids, Michigan area communities on transfer of their cable franchise from AT&T to AT&T Comcast.

City of Plano, TX (2002). Represent City of Plano on transfer of its cable franchise from AT&T to AT&T Comcast.

In re: 2000 PA 48 House of Representatives' Request for an Advisory Opinion, (Supreme Court Case No. 121394), (2002). Represent the Michigan Municipal League and the Michigan Townships Association in Michigan Supreme Court on advisory opinion on the constitutionality of Public Act 48 of 2002.

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City of Livonia, MI (2002). Represent City of Livonia on transfer of its cable franchise from Time-Warner Entertainment-Advance/Newhouse Partnership to TWEAN Subsidiary, LLC (entity to be managed by Advance/Newhouse Partnership).

Fort Worth, Texas Area Communities, (2002). Represent the City of Fort Worth and approximately 13 nearby Texas communities on customer service and cable modem matters with Charter Communications.

Cable Modem Franchise Fee Preemption Case, (FCC Case CS Docket No. 02-52), (2002). Represent approximately 39 communities from several states at FCC opposing FCC ruling that cable services do not include cable modem service and FCC proposed preemption of municipalities on several matters related thereto.

Sprint Spectrum LP v City of Carmel, Indiana, et al. (SD Indiana Case IPO2-11-33C T/K), (2002). Co-counsel for City of Carmel and Board of Zoning Appeals opposing lawsuit to allow cellular antenna to be placed on ham radio tower in residential area with separate maintenance building and access road.

City of Garden City, MI (2003 - 2005). Represent the City in cable franchise renewal with Comcast.

Charter Franchise Renewals, (2003 - 2005). Represent approximately fifty-nine Michigan municipalities on joint cable franchise renewal with Charter Communications.

CoxCom, Inc. v City of Mesa, (Federal District Court, Arizona, Case #CV '03 1404 PHXSRB), (2003 - 2004). Successfully assist City of Mesa in obtaining dismissal with prejudice of challenge to requirement for local emergency alert system.

TCA Holdings II, L.P. d/b/a Cox Communications v Cities of College Station and Bryan, Texas (Brazos County, TX District Court, Case #03-000617-CV-272), (2003 - 2004). Assist Cities both in challenging claimed automatic renewal provision of franchises, which violates City Charters, and in resolving dispute by obtaining favorable franchise renewals.

In re: Format of METRO Act Route Maps, Michigan Public Service Commission, Case No. U-13869 (2003). Represent City of Detroit, Michigan Municipal League and PROTEC in MPSC proceeding on whether route maps under Metro Act should be in electronic, paper or both formats.

Temple and Byers v City of Westland, (Wayne County Circuit Court, Michigan, Case #03-3308096-CZ), dismissal affirmed on appeal, 2005 WL 1750653 (Mich App 2005), leave to appeal denied. Represent City of Westland in successfully obtaining dismissal of subscriber class action lawsuit claiming the cable franchise fees paid the City are an illegal tax.

Morgan v City of Grand Rapids, 267 Mich. App. 513 (2005); leave to appeal denied. Represent City of Grand Rapids in successfully obtaining dismissal of subscriber class action lawsuit claiming the cable franchise fees paid the City are an illegal tax.

Siegel v City of Muskegon, (Muskegon County Circuit Court, Michigan, Case #03-42792-CZ), dismissal affirmed on appeal, 2005 WL 1750651 (Mich App 2005), leave to appeal denied. Represent City of Muskegon in successfully obtaining dismissal of subscriber class action lawsuit claiming the cable franchise fees paid the City are an illegal tax.

## JOHN W. PESTLE

Tiffany Dobson and Jennifer Brogno v City of Ann Arbor, (Washtenaw County Circuit Court, Michigan, Case #03-1282-CZ), appeal pending. Represent City of Ann Arbor in successfully obtaining dismissal of subscriber class action lawsuit claiming the cable franchise fees paid the City are an illegal tax.

In the Matter of the Complaint of McLeodUSA against the City of Saginaw, (Michigan Public Service Commission, Case No U-13981) (2004). Represent City of Saginaw in successfully defeating claim for refund of past fees paid by McLeod under the Michigan Telecommunications Act and request for new permit under the Metro Act.

City of Idaho Falls, ID (2004-2005). Assist City in cable franchise renewal with Cable One.

City of New Castle, DE (2004 - 2005). Assist City in cable franchise renewal with Comcast.

City of Auburn, CA (2004). Represent City of Auburn on sale of cable system serving City from Charter Communications to Boulder Ridge Cable TV d/b/a Starstream Cable and concurrent rewrite of City's cable franchise enabling ordinance and cable franchise.

City of Fort Worth, TX (2004 - 2006). Represent City of Fort Worth on cable franchise renewal with Charter and related matters.

In re Review of the Emergency Alert System, (FCC EB Docket 04-296) (2004 - 2005). Represent National League of Cities, National Association of Telecommunications Officers and Advisors, other state and national municipal organizations and various municipalities in comments opposing proposed FCC rule which would preempt local emergency alert systems and not provide municipalities with an effective substitute.

Scottsdale, Mesa, Chandler and Paradise Valley, AZ (2004 - 2006). Assist cities on Federal aspects of cable related tax disputes with Cox Communications.

Allendale and Robinson Townships, MI (2004). Represent the townships on grant of a cable franchise to Allendale Telephone Company, which will provide cable service in competition with the incumbent cable provider.

City of Fort Worth, TX (2004 - 2005). Represent City of Fort Worth on grant of cable franchise to Verizon.

Marquette, MI (2004). Represent City of Marquette Light and Power Board on fiber optic agreements.

Holland and Park Townships, MI (2005). Represent the townships on grant of a cable franchise to a new telephone company which will provide cable service to certain areas within the townships.

Town of Hull, MA (2005). Special counsel for Town of Hull and its municipal electric utility on aspects of agreement with private party to install fiber optic cable (1) for wireless services, with (2) dark fiber network for Town.

Zeeland Township, MI (2005). Represent the township on grant of a cable franchise to Allendale Telephone Company, which will provide cable service in competition with the incumbent cable provider.

Peoria, IL (2005 - 2007). Represent City on cable franchise renewal with Insight Communications.

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Sterling, CO (2005 - 2008). Represent City on cable franchise renewal with Bresnan Communications.

Arlington, TX (2005). Represent City on cable franchise transfer from Comcast to Time Warner.

Sarasota County, FL (2005 - 2006). Assist County on proposed second cable franchises with Verizon and with Brighthouse Communications.

National Video Franchise Legislation, (2005 - 2006). Represent municipalities in opposition to proposed Federal legislation such as S. 1504, S. 1349 and H.R. 3146 which would assist phone company entry into the cable television business, such as by establishing a national cable franchise or restrictive national rules and timing constraints for local issuance of cable franchises.

State Video Franchise Legislation, (2005 - 2006). Represent municipalities in opposition to state legislation to aid phone company entry into the cable television business by having the state (not municipalities) award cable franchises.

Michigan Uniform Video Services Local Franchise Act, 2006 Public Act 480 (2005 - present). Represent municipalities on passage and implementation of legislation on uniform video franchises for Michigan.

Martin County, FL (2005). Assist County on transfer of its cable franchise from Adelphia to Comcast.

Sierra Vista, AZ (2005 - 2006). Assist City on cable franchise renewal with Cox Communications.

Grand Rapids Public Schools (2005 – present). Represent the Grand Rapids, Michigan, School District on numerous leases of land to T-Mobile, MetroPCS, Clearwire, etc. for cell phone or WiMAX antennas and related matters.

St. Joseph, MI (2005). Represent City of St. Joseph on transfer of its cable franchise from Greene County Partners to Comcast.

Brighton Township, MI (2005- 2008). Represent Township on cable franchise renewal with Comcast and on grant of cable franchise to AT&T.

Salt Lake City, UT (2005-2006). Assist City on negotiation and award of second cable franchise to Qwest.

In re Implementation of Section 621(a)(1) of the Cable Act (FCC National Franchising Rulemaking) (FCC MB Docket No. 05-311) (2005 - 2006). In FCC Notice of Proposed Rulemaking to set national limits and terms on cable franchises for phone companies, represent NATOA on preparation of suggested template for comments by municipalities. Represent numerous municipalities in rulemaking.

Lenexa, KS (2005 - 2006). Represent City on telephone franchising matters with competitive phone companies.

Traverse City, MI (2005 - 2006). Assist City of Traverse City Light and Power Board on fiber optic agreements.

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Lansing, MI Cable Franchise Renewal and Implementation, (2005 - 2008). Represent the City of Lansing on favorable cable franchise renewal with Comcast, with significant increase in franchise fees and financial support for PEG channels.

Garden City, MI (2006). Represent City on change of control of its second cable operator, Wide Open West.

Mesa, AZ (2006-2007). Assist City of Mesa, AZ on grant of citywide Wi-Fi contract to Earthlink and other operators, including right of way agreement, pole attachment agreement, city usage agreement, buildout requirements and related provisions.

Westland, MI (2006). Represent City on change of control of its second cable operator, WideOpenWest.

Mesa, AZ (2006). Assist City on transfer of control of its second cable operator from Cable America to Cox Communications.

St. Charles, MO (2006-2009). Assist the City on grant of cable franchise to SBC, and on franchise fee and other disputes with Charter Cable.

Bryan and College Station, TX (2006). Represent cities on transfer of cable systems serving their cities from Cox Communications to Cebridge Connections.

Victoria, TX (2006). Represent city on transfer of cable system serving the city from Cox Communications to Cebridge Connections.

Georgetown, TX (2006). Represent city on transfer of cable system serving the city from Cox Communications to Cebridge Connections.

Abilene, Amarillo, Midland, San Angelo, Plainview and Big Spring, TX (2006). Represent cities on transfer of cable systems serving their cities from Cox Communications to Cebridge Connections.

Portland and Fowlerville, MI (2006). Assist Cities on proposed transfer of cable franchise from Millenium Cable to new operator.

Sioux City, Iowa, et al. (2006). Assist four Iowa cities on cable franchise fee issues.

City of Mesa, AZ (2006). Special counsel for the City on cable franchise renewal with Eagle West Cable.

Lansing, MI, Board of Water and Light (2006 – present). Represent Lansing Board of Water and Light on 800 MHz Sprint-Nextel radio rebanding.

Saginaw, MI (2006-2008). Represent City of Saginaw on PEG issues with Charter and on cable franchise renewal with Charter under new Michigan cable statute.

Portage, MI re Charter Cable (2006- present). Represent City on cable franchise matters with Charter Cable; conversion to new, state form of franchise; PEG issues; and 2009 bankruptcy of Charter cable.

Saline, MI et al. (2006). Represent the Cities of Saline, Milan and other Michigan communities on cable franchise renewal.

Sturgis, MI (2006 – present). Represent the City of Sturgis on cable franchise renewal with Charter cable, right of way ordinance, and related matters.

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Lansing, MI, Arialink Uniform Cable Franchise (2007). Represent the City of Lansing on grant to Arialink on favorable terms of one of first cable franchises under new Michigan cable statute.

Charter, Michigan Communities (2007- 2009). Represent approximately fifty (50) communities in Michigan served by Charter Cable on grant of new, state uniform franchise to Charter, PEG related amendments to same to reflect recent developments, video service provider right of way ordinances, and Charter bankruptcy matters.

In re AT&T v. City of Southfield, Michigan Public Service Commission Case No. U-15281(2007). Assist City of Southfield in resolving complaint by AT&T regarding City's issuance of cable franchise to AT&T.

City of Detroit vs. Comcast, MPSC Case No. U-15329 (2007 – 2009). Represent City of Detroit in complaint regarding PEG matters.

Flint, MI (2007 – present). Represent City of Flint, MI on franchise fee and PEG related disputes with Comcast, including City of Flint v. Comcast of Flint, Case No. 2:08-cv-14871 (U.S. District Ct., ED Mich, 2008).

Clinton, MI (2007). Represent the Village of Clinton, MI and related communities on grant of cable franchise renewal to Comcast and related matters.

T-Mobile Central v. City of Lansing, Case No. 1:07-CV-1173 (WD Mich, 2007-2008). Successfully represent the City of Lansing, Michigan, in obtaining dismissal of lawsuit challenging denial of zoning approval for cell tower, and related matters.

Grand Rapids, MI Area Communities (2007 – 2008). Represent the City of Grand Rapids, MI and other Grand Rapids area communities on preparation for and grant of cable franchise to AT&T.

Sedona, AZ (2007). Assist City of Sedona, AZ on cable franchise renewal.

Andover, KS (2007). Assist City of Andover, Kansas on cable and telecommunications franchising matters.

Portage, MI re AT&T Cable (2008). Represent City on grant of cable franchise to AT&T and related PEG issues.

Saginaw, MI (2008). Represent City on grant of cable franchise to AT&T and on PEG issues.

Westland, MI (2008). Represent City on grant of cable franchise to AT&T and on related issues.

Flint, MI (2008). Represent City of Flint, MI on grant of cable franchise to AT&T.

Flint MI Area Communities (2008). Represent Flint Charter Twp, MI, City of Grand Blanc, MI and several nearby communities on grant of cable franchise to AT&T.

Battle Creek, MI (2008). Represent City on grant of cable franchise to AT&T and on related issues.

Fowler, MI (2008). Represent the Village of Fowler, MI on lease and other matters for Wi-Fi antennas and Internet service to Village.

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Hamburg Twp, MI (2008). Represent Hamburg Twp on issues and contracts relating to provision of Wi-Fi service in municipality by private company.

City of Grand Haven, et al. (2008). Represent the Cities of Grand Haven and Hudsonville, Holland Charter Twp and other nearby communities on grant of cable franchise to AT&T.

In Re CTIA Cell Tower Zoning Preemption Petition, FCC WT Docket No. 08-165 (2008). File comments on behalf of municipal organizations representing the interests of all 1,775 units of local government in the State of Michigan, plus other municipalities from across the country, opposing cellular industry request to impose "shot clocks" on cell tower zoning applications and preempt the grant of such approvals by variances.

Plainfield Twp, MI (2008). Represent Plainfield Twp on grant of cable franchise to AT&T, and PEG and related issues involving Charter Cable and Comcast.

Belding, MI (2008). Represent City of Belding, MI on contract for provision of Wi-Fi service throughout the City by private company.

Denton, TX (2008). Represent City of Denton, TX, in successfully preventing significant reduction in PEG channels and support by Charter Cable.

City of Lansing v. Arialink Telecom, (2009), Ingham County Circuit Court Case No. 09-63-CZ. Represent City of Lansing in PEG related lawsuit against Arialink.

Petition for Declaratory Ruling of the City of Lansing, Michigan, on Requirements for a Basic Service Tier and for PEG Channel Capacity Under Sections 543(b)(7), 531(a), and the Commission's Ancillary Jurisdiction Under Title I, FCC MB Dockets No. 09-13, CSR-8127 (2009 – present). Represent the City of Lansing, MI in first challenge to AT&T's failure to provide PEG channels in same manner, format and quality as all other cable channels on AT&T system.

In re PEG Channel Litigation, FCC MB Dockets No. 09-13, CSR-8126 and 8128 (2009). File comments on behalf of Michigan Municipal League and Michigan Townships Association supporting City of Lansing and Alliance for Community Media in their challenge to AT&T's means of providing PEG channels.

In re WJNZ (2009). Represent receiver of AM radio station WJNZ on FCC proceeding for involuntary license transfer and related matters.

### **Public Power and Related Municipal Utilities**

Consumers Power Company v Combustion Engineering, et al., (WD Mich, 1974 - 1977). Successfully represent Consumers Power Company in its claims against the architect/engineer, constructor, and vendors for the Palisades Nuclear Power Plant.

Houston Light Power, et al v Brown & Root, et al., (Matagorda County, Texas District Court, 1981). Represent City of Austin, Texas in its claim against the architect/engineer/constructor of the South Texas Project nuclear plant and its attempts to sell or withdraw from the plant.

Eby v Lansing Board of Water & Light, et al., 417 Mich 297, 336 NW2d 205 (1983). Represent ten Michigan municipal electric utilities as amicus curiae in case on authority of the Lansing Board of Water & Light to contract to buy power from the Michigan

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Public Power Agency, This was the first case after the multi-billion dollar Washington Public Power Supply System bond default to uphold a joint action agency \$590 million municipal bond issue for the purchase of 37% of Detroit Edison's Belle River I and II coal plants.

Counsel to the Michigan Municipal Electric Association (1984-1998).

Represent municipalities and others on FERC licensing and other aspects of hydroelectric projects (1984-1997).

Village Green of Lansing, et al. v The Board of Water and Light et al., 145 Mich App. 379 (1985). Represent fourteen municipal electric systems and Michigan Municipal Electric Association on appeal in challenge to commercial electric rates and successfully had them removed from the case.

Represent Western Illinois Power Cooperative in negotiations relating to its 9.5% interest in the Clinton nuclear power plant (1984-1985).

Vermont Department of Public Service v Massachusetts Municipal Wholesale Electric Company, 558 A.2d 215 (Vermont Supreme Court, 1988). Special counsel to four Vermont municipal and cooperative utilities in a challenge to the validity of their contracts to purchase power from a municipal power agency's share of the Seabrook Nuclear Plant.

City of Marquette v Chocolay Township, 424 Mich 875 (1986). Represent the City of Marquette, Michigan on appeals involving challenges to the electric rates which the City's municipal utility charged in adjacent municipalities.

Grand Rapids District Heating System, (1985 – 1999). Represent Kent County on acquisition and operation of municipally owned steam system serving downtown Grand Rapids, Michigan.

Wyandotte Interconnection Matters, (1984 - 1987). Represent City of Wyandotte, Michigan, Municipal Service Commission on long-term retail power sales contract with Wayne County, interconnection and wholesale rate issues with the Detroit Edison Company, coordination services agreement with Michigan South Central Power Agency and other matters relating to \$29 million in improvements to the City's electric and district heating system. Includes In re: The Detroit Edison Company, Federal Energy Regulatory Commission Case ER88-493 (1988).

NNOOG, (1987 - 1993). Secretary to the Nuclear Non-Operating Owners Group, a trade group which serves the interests of individuals with municipal, cooperative and investor-owned utilities which own a portion of a nuclear power plant that is operated by another utility.

ElectriCities of Alabama, (1984 - 1986). Assist Alabama municipal electric utilities on antitrust aspects of Federal Court challenge to territorial legislation.

Michigan Municipal Cooperative Group (MMCG), (1988 - 1993). Co-Counsel for approximately 25 utilities in MMCG in their activities at FERC, MPSC, SEC, NRC, Congress and other forums to assure fair transmission access to Michigan's electric transmission lines and to assure fair prices on electricity Consumers Power buys from its Midland Cogeneration Venture and Palisades Generating Company affiliates.

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City of Marshall v Consumers Power Company, MPSC Cases U-9561, U-10005, U-10006, and U-10278, Calhoun County Circuit Court, Court of Appeals and Michigan Supreme Court (1988 - 1995), inter alia 435 Mich 881, 440 Mich 914, 206 Mich App 666 (1v to app denied). Represent City of Marshall in MPSC complaint and certificate of convenience and necessity proceedings, related injunction case and court appeals of both relating to Consumers Power's attempts to serve existing customers of the City.

Consumers Power Company v Lansing Board of Water & Light, 200 Mich App 73 (Clinton County Circuit Court, Michigan Court of Appeals, 1989 - 1992). Represented the Lansing Board of Water & Light in litigation affirming the authority of the Board to provide electric service to certain areas outside the City of Lansing.

Michigan South Central Power Agency and other municipal utilities, (1990 - 1991). Represent Michigan South Central Power Agency and other municipally owned electric utilities in analyzing and responding to takeover attempts by major private utilities.

City of Detroit, (1992 - 1997). Represent City's municipal electric utility in various FERC and MPSC proceedings and on related energy matters. Includes In re: Detroit Edison Company, Federal Energy Regulatory Commission Cases ER-92-180, EL-92-17, and ER-93-91 (1992 - 1994).

City of Detroit v Detroit Edison, MPSC Case U-10144 (1992 - 1993). Represent City of Detroit in challenge to Detroit Edison's attempting to provide electric service to Federal building in Detroit which was receiving service from the City's electric utility.

National Energy Policy Act of 1992, (Publ. L. 102 - 1018) (1991 - 1992). Represent approximately 25 Michigan municipal and cooperative utilities on landmark Electricity Title (Title VII) of Act which moves towards restructuring U.S. electric industry by allowing deregulated power plants and opening transmission for better access by third parties.

Oscoda Twp, MI (1992 - present). Represent Oscoda Charter Twp on utility, franchising and other issues relating to the closure of and provision of utility service to the former Wurtsmith Air Force Base.

Grand Haven Board of Light and Power, (1993 - present). Counsel for Board of Light and Power on all energy matters. Successfully represent Board in MPSC case challenging Consumers Power Company's attempt to take retail customer from the Board.

Hillsdale Board of Public Utilities v Consumers Power Co., (1993 - 1997). Represent Board in MPSC cases and court appeals challenging Consumers Power Company's attempt to take retail customers from the Board.

Coldwater Board of Public Utilities v Consumers Power Co., (1994 - 1995). Represent the Board in MPSC cases challenging Consumers Power Company's attempt to take retail customers from the Board.

City of Petoskey, MI (1994 - present). Represent the City on selected matters related to service to new customers and new developments and billing disputes.

Portland, MI (1995 - 2002). Represent City's municipally owned electric utility on customer and service area issues.

Top O' Michigan Rural Electric Co-op Company v City of Petoskey, (Emmett County Circuit Court Case 96-3812-CZ) (1996). Successfully represent City of Petoskey in

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defeating preliminary injunction (and dissolving TRO) to prevent City from serving new hospital and shopping center located in adjacent township. Assist City on obtaining franchise from township.

Chelsea, MI (1998 – present). Represent the Village, now City, of Chelsea, on range of electric, water and wastewater utility issues, including litigation on provision of service.

Battle Creek, MI (2007). Assist the City of Battle Creek on renewable energy and hydroelectric dam relicensing matters.

### Solid Waste Management/Antitrust

Fenske v Kent County, et al., (Kent County Circuit Court and U.S. Districts Court, Western District of Michigan, 1978 - 1980). Represent municipal defendants in antitrust challenges to flow control contracts.

Michigan Antitrust Reform Act of 1984, (1984). Represent Public Corporation Law Section of State Bar of Michigan in placing express exemption for municipalities in Michigan's antitrust act.

Local Government Antitrust Act of 1984 (Pub. L. 98-544, 98 Stat. 2750), (1984). Assist several municipalities and municipal associations in having Federal antitrust laws amended to make municipalities/municipal officers immune from damages.

Hybud Equipment Corp v City of Akron, 742 F.2d 949 (Sixth Circuit, 1984). Represent 15 Michigan cities, Michigan Townships Association, and State Bar of Michigan as amicus curiae on elements of municipal antitrust exemption in case involving flow control ordinances for solid waste disposal project.

Town of Hallie v City of Eau Claire, U.S. Supreme Court Case No. 821832, 105 S. Ct. 1713 (1985). Special Counsel to four municipalities who participated as amicus curiae in first Supreme Court case in 40 years to uphold a state/municipal action exemption from the Federal antitrust laws.

Kent County Project, (1985 - 1996). Assistant civil counsel for Kent County, Michigan on energy aspects of \$90 million/625 ton per day waste to energy incinerator and acquisition of district heating system from Consumers Power Company.

Kalamazoo Project, (1987 - 1988). Assist Kalamazoo Council of Governments on energy and flow control aspects of feasibility study of solid waste reduction, recycling and disposal options, including a waste to energy project. Represent Council of Governments in Michigan Public Service Commission proceedings to obtain a power sales contract for a potential waste-to energy project.

Bi-State Regional Planning Commission, (1988 - 1990). Represent Planning Commission for five counties in Iowa and three in Illinois on a feasibility study of their solid waste management and disposal options.

City of Ann Arbor, MI (1989 - 1990). Assist the City of Ann Arbor in examining its solid waste recycling, management and disposal options, including determining the appropriate structure to use for a program involving multiple units of government.

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### Cogeneration/Small Power Production

In re: Consumers Power Company (Midland), Michigan Public Service Commission Case U-7830 (1983 - 1985). Represent trade association on stand-by rates and related matters in Public Service Commission general rate case dealing with Consumers Power Company and Midland Nuclear Plant.

In re: Interwest Energy, Michigan Public Service Commission Case U-7990 (1984). Represent cogenerator in power sales contract approval by Michigan Public Service Commission.

In re: Viking Energy, Michigan Public Service Commission Case U-8062 (1984). Represent cogenerator in two power sales contracts with Consumers Power Company and approval by Michigan Public Service Commission.

In re: Viking Energy Corporation and its related companies, Federal Energy Regulatory Commission Docket Nos. QF84-348-000, QF84-399-000 and QF84-349-000 (1984 - 1987). Various filings for certification and recertification of small power production and cogeneration facilities for a developer of wood fired projects in Pennsylvania and Michigan.

In re: Alcon Puerto Rico, Inc., Federal Energy Regulatory Commission Docket QF84-147-000 et seq. (1985 - 1987). Intervene on behalf of Energy Michigan, Inc. in FERC case with major impact on third party ownership of cogeneration facilities.

In re: Monroco Partners, Michigan Public Service Commission Case U8783 (1985 - 1988). Represent a cogenerator in extensive contract negotiations, mediation efforts with Commission staff and formal complaint proceedings before the Michigan Public Service Commission to require Detroit Edison to sign a power purchase contract with financeable rates and terms.

Counsel to Indeck Energy Services of Turner Falls, Inc. in the 1986 negotiation of power sales contract, coal supply contract, operations and maintenance contract, and energy services agreement for a cogeneration facility at a paper mill in Massachusetts.

In re: Tondy Energy Systems, Inc., Michigan Public Service Commission Case U-8562 and ABATE v Public Service Commission, 173 Mich App 647, 434 N.W.2d 648 (1988) (1986 - 89). Represent cogeneration project in application for approval of its power sales contract with Consumers Power and in upholding favorable MPSC order on appeal. Extensive hearings held on concept of avoided cost.

Puerto Rico Electric Power Authority v Federal Energy Regulatory Commission, 848 F.2d 243 (DC Cir, 1988). Intervene on behalf of Energy Michigan, Inc. in successful appeal of FERC ruling on policy decision on third party ownership favorable to cogeneration industry.

Michigan Act 81 of 1987, (1986 – 1989). Serve as negotiator/lobbyist for cogeneration industry regarding passage of a bill designed to improve the financing ability of cogeneration, waste to energy and small power production facilities in Michigan. Represent Tondy Energy Systems in defending Act in first appellate proceedings on validity and construction of Act 81.

James River/Dennison, (1987 – 1988). Represent James River Corporation and Dennison Manufacturing/Dunn Paper Company on disputes and issues involving interconnection, standby rate and power sales agreements with Detroit Edison for 16 megawatt cogeneration facility serving paper plant in Port Huron, Michigan (1987 - 1988).

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In re: Ada Cogeneration, Michigan Public Service Commission Case U-8833 (1987 - 1988). Represented joint venture of Combustion Engineering and Hydro Engineering in case to approve cogeneration power sales contract.

In re: Northeast Cogen, Inc., Federal Energy Regulatory Commission Docket No. QF 88-111-000 (1987 - 1988). Represent Northeast Cogeneration on FERC certification of a 40 MW combined cycle project as a qualifying facility and on selected aspects of major energy contracts for the project.

In re: Alpena Power Company, Michigan Public Service Commission Case U-9075 (1988 - 1994). Represent Hillman Limited Partners (QF) in complaint and court appeals brought by a competing utility questioning whether Consumers Power Company needs a certificate of convenience and necessity for a 3.5-mile transmission line owned by the qualifying facility that crosses utility service territory boundaries.

Tenaska Wyandotte Project, (1999 - 2001). Represent Tenaska and affiliated entities on environmental and other matters on development of 500-megawatt gas fired independent power project on Brownfield site in City of Wyandotte, Michigan.