



Scott H. Strauss

Partner

Scott Strauss has dedicated his career to protecting the interests of consumers. Through his representation of states, ratepayer advocates, labor unions and municipal and consumer-owned utilities — before tribunals ranging from state utility commissions to the United States Supreme Court — Scott has helped to reshape the landscape of regional electricity markets, creating millions of dollars in savings for his clients and their consumers, while helping to ensure the quality, reliability and sustainability of utility services.

Scott has been listed in Chambers USA and Chambers Global, named a DC SuperLawyer on fourteen separate occasions, recognized as an AV Preeminent-Top Rated Lawyer® for Energy, Environmental and Natural Resources by ALM Media, and selected as a “Utility Lawyer of the Year” for 2011 by Public Utilities Fortnightly magazine. In Chambers, he was described by commenters as an “incredible attorney” with “impeccable” “judgment and litigation sense”; his writing was characterized as “excellent,” and it was noted that he “hones in and identifies issues that aren’t obvious.”

Scott describes the “David and Goliath” aspect of his practice as its most engaging feature: “What I love most about my job is that every so often I get to topple a big guy while working for a little guy.” And battling on behalf of clients with relatively fewer resources is just part of the challenge: “What our clients may lack in resources we make up for by developing creative approaches to solving problems.”

As lead trial counsel in proceedings before the Federal Energy Regulatory Commission, state public service commissions across the country, and other federal agencies — including the Federal Communications Commission, the Federal Election Commission and the Nuclear Regulatory Commission — Scott has spent extensive time in the hearing room, cross-examining everyone from technical experts to CEOs. He has earned a reputation for being able to present highly complex material to tribunals in a manner that is

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EDUCATION

University of Pennsylvania,
JD, *cum laude*, 1981
Philadelphia, PA
*University of Pennsylvania Law
Review*, Editor
Order of the Coif

Cornell University, BS, 1978
Ithaca, NY
School of Industrial and Labor
Relations
6th in Graduating Class

ADMISSIONS

District of Columbia
United States Supreme Court

United States Courts of Appeals
for the District of Columbia, First,
Second, Third, Fourth, Sixth and
Seventh Circuits

United States District Court for the
District of Columbia

MEMBERSHIPS

Energy Bar Association

Chairman, Advisory Neighborhood
Commission 3F (District includes
North Cleveland Park and Forest
Hills, Washington, DC), 1996–1997

Commissioner, Advisory
Neighborhood Commission 3F
(Single Member District 3F 06),
1993–1998

both engaging and persuasive. However, whether in the courtroom or at the negotiating table, for Scott it all comes down to the arguments he can muster and the strategies he can develop to present them: “Litigators are in the ideas business — if you have good ideas to offer, and can present them in a manner that will be accessible to the tribunal, then you always have a shot at winning.”

Scott recognizes that his career path has been somewhat unusual — he joined the firm right after law school graduation from the University of Pennsylvania and never left. The explanation is simple: “Everything I want is right in front of me. The clients are worth fighting for, the issues facing the energy industry are only becoming more significant and challenging, and my colleagues are a wonderful mix of supportive and stimulating people — why go anywhere else?”

Representative Matters

U.S. Supreme Court Experience

- The Maryland Public Service Commission in an appeal of a district court decision striking down a PSC order aimed at ensuring service reliability. Scott argued the case before the U.S. Supreme Court. *PPL EnergyPlus, LLC v. Nazarian*, 753 F.3d 467 (4th Cir. 2014), *aff’d sub nom. Hughes v. Talen Energy Mktg. LLC*, 578 U.S. 150 (2016).
- The Chair and Commissioners of the New York State Public Service Commission in a case defending New York’s zero-emissions credit component of the state’s “Clean Energy Standard.” The district court dismissed the complaint against the Commission; the second circuit affirmed; and the Supreme Court denied a petition for *certiorari*. *Coalition for Competitive Electricity v. Zibelman*, 272 F. Supp. 3d 554 (S.D.N.Y. 2017), *aff’d*, 906 F.3d 41 (2d Cir. 2018), *cert. denied sub nom. Elec. Power Supply Ass’n v. Rhodes*, 139 S. Ct. 1547 (2019).
- *Amici Curiae* American Public Power Association and National Rural Electric Cooperative Association in a proceeding involving rights of parties who did not consent to a settlement to challenge rates under

those contracts under the “ordinary just and reasonable” standard. *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165 (2010).

Federal Court and Agency Experience

- The ratepayer advocates for the District of Columbia, Delaware, Maryland and New Jersey in a challenge to PJM Interconnection, L.L.C.’s “focused” minimum offer price rule (“MOPR”). The Federal Energy Regulatory Commission had deadlocked, and the application took effect by operation of law. Scott presented argument in support of the Commission. The court affirmed FERC’s ruling. *PJM Power Providers Grp. v. FERC*, No. 21-3068, 2023 WL 8291307 (3d Cir. Dec. 1, 2023).
- The Connecticut Public Utilities Regulatory Authority in complaint challenging the return on equity used to set New England region wide transmission rates. The Federal Energy Regulatory Commission directed a substantial ROE reduction. *Coakley v. Bangor Hydro-Electric Co.*, Op. No. 531, 147 FERC ¶ 61,234, *on paper hearing*, Op. No. 531-A, 149 FERC ¶ 61,032 (2014), *on reh’g*, Op. No. 531-B, 150 FERC ¶ 61,165 (2015), *vacated and remanded sub nom. Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017).
- The New Jersey Rate Counsel in a complaint proceeding concerning proposed changes to design of regional capacity market design. *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022, *reh’g denied*, 137 FERC ¶ 61,145 (2011), *review denied sub nom. New Jersey Board of Public Utilities v. FERC*, 744 F.3d 74 (3d Cir. 2014).
- A Massachusetts municipally owned utility joint action agency and a New Hampshire electric cooperative in a challenge to proposed changes to the treatment of “self-supplied” capacity resources. *ISO New England Inc.*, 135 FERC ¶ 61,029 (2011), *reh’g denied in part and granted in part*, 138 FERC ¶ 61,027 (2012), *review denied sub nom. New England Power Generators Association v. FERC*, 757 F.3d 283 (D.C. Cir. 2014).

State Court and Agency Experience

- The District of Columbia Office of People’s Counsel in its appeal of the

D.C. Public Service Commission's approval of Pepco's proposed multi-year rate increase. The court granted the petition in full and remanded the matter to the Commission. *Office of People's Counsel v. Pub. Serv. Comm'n*, 284 A.3d 1027 (D.C. 2022).

- The District of Columbia Government in a proceeding concerning the proposed acquisition by AltaGas of Washington Gas. Following an evidentiary hearing, the case was resolved by settlement. *In re the Merger of AltaGas Ltd. & WGL Holdings, Inc.*, Order No. 19396, Formal Case No. 1142 (D.C. Pub. Serv. Comm'n June 29, 2018).
- The District of Columbia Office of People's Counsel in its appeal of the D.C. Public Service Commission's approval of the Exelon PHI merger. *Office of People's Counsel v. Pub. Serv. Comm'n*, 163 A.3d 735 (D.C. 2017).
- The D.C. Office of People's Counsel in a distribution service rate increase proceeding. The litigation resulted in Commission order substantially reducing proposed increase. *In re the Application of the Potomac Electric Power Co. for Authority to Increase Existing Retail Rates & Charges for Electric Distribution Service*, Formal Case No. 1139, Order No. 18,846, 338 P.U.R.4th 341 (D.C. Pub. Serv. Comm'n July 25, 2017), *corrected*, Order No. 18,850 (D.C. Pub. Serv. Comm'n July 31, 2017).
- The D.C. Office of People's Counsel in a proceeding involving investigation of gas distribution rates. The litigation resulted in Commission order substantially reducing Company proposed rate increase. *In re Washington Gas Light Co. for Authority to Increase Existing Rates & Charges for Gas Service*, Formal Case No. 1137, Order No. 18,712, 336 P.U.R.4th 8 (D.C. Pub. Serv. Comm'n Mar. 3, 2017), *reconsideration denied and clarified*, Order No. 18,768 (D.C. Pub. Serv. Comm'n May 12, 2017).
- The State of Maryland and the Maryland Energy Administration in a proceeding concerning the proposed acquisition by Exelon Corporation of PHI Holdings, Inc. *In re the Merger of Exelon Corp. & Pepco Holdings, Inc.*, Case No. 9361, Order No. 86,990, 321 P.U.R.4th 6 (Md. Pub. Serv. Comm'n 2015).

- The State of Maryland and Maryland Energy Administration in a proceeding concerning proposed merger. Litigation resulted in Commission?approved settlement conditioning merger on the provision of some \$1 billion in benefits to the state, residents, and ratepayers. *In re the Merger of Exelon Corp. & Constellation Energy Group, Inc.*, Case No. 9271, Order No. 84,698, 295 P.U.R.4th 183 (Md. Pub. Serv. Comm'n 2012).
- The State of Maryland and Maryland Energy Administration in a challenge to proposed acquisition by EDF, a French utility, of a nearly 50 percent interest in Constellation Energy's nuclear subsidiary. Litigation resulted in approval of transaction with conditions imposing substantial ratepayer protective conditions and separate \$110 million rate credit. *In re the Future Financial Condition of Baltimore Gas & Electric Co.*, Case No. 9173 (Phases I and II), Order No. 82,719, 273 P.U.R.4th 522 (Md. Pub. Serv. Comm'n), *further proceeding*, Order No. 82,986, 277 P.U.R.4th 365 (Md. Pub. Serv. Comm'n 2009).

Labor Litigation Experience

- The Utility Workers Union of America Local 1-2 in a challenge to Consolidated Edison Company of New York's July 2012 lockout of 8,500 utility workers. The matter was resolved by settlement. *Request for Investigation of Utility Workers Union of America, AFL-CIO, Local 1-2*, Docket No. 12-M-0306 (N.Y. Pub. Serv. Comm'n).
- The Utility Workers Union of America Local 537 in a challenge to proposed staffing reductions. The water company was required to rescind proposed layoffs of union personnel. *West Virginia American Water Co.*, Case No. 11-0740-W-GI, 293 P.U.R.4th 107 (W.Va. Pub. Serv. Comm'n 2011).
- The International Brotherhood of Electrical Workers Local 1245 in a request for the initiation of an investigation into "graying workforce" concerns. *Investigation Regarding Whether the Workforce of Sierra Pacific Power Co. d/b/a NV Energy ("SPPC") Is, or in the Future Will Be, Experiencing a Significant Amount of Aging, and the Potential Impact, If Any, That Such Aging May Have on the Reliability of SPPC's Service*, Docket No. 11-02015 (Nev. Pub. Utils. Comm'n Jan. 30, 2014).

- The Utility Workers Union of America Local 369 in a successful challenge to Commission rejection of a complaint alleging that the employer was engaging in political contribution “solicitation.” *Utility Workers Union of America, Local 369, AFL-CIO v. Federal Election Commission*, 691 F. Supp. 2d 101 (D.D.C. 2010).

Telecommunications Experience

- Served as counsel to a complainant in the first “Formal Complaint” filing under Section 255 of the Communications Act. A settlement resulted in production and marketing of a cell phone with accessibility features for persons with blindness or vision disabilities. *O’Day v. Audiovox Communications Corp.*, DA Docket No. 03-4116, 19 FCC Rcd 14 (2004).

Practice Focus

Electric, gas, environment and energy, telecommunications, utility workforce, compliance and enforcement, contracts and rate negotiations, litigation and appeals and public policy and lobbying.

Resources

- *Opinion: FERC’s Capacity Markets Limit Clean Energy and Cost Billions; It’s Time for Congress to Act*, by Scott H. Strauss, Peter J. Hopkins, Jeffrey A. Schwarz – *Utility Dive* (August 2020).
- *The Role of State Utility Commissions in Setting Policy for Responsible Contracting*, by Scott H. Strauss (November 2018).
- *When Labor’s Locked Out: ConEd, Public Safety, and the Regulatory Response*, by Peter J. Hopkins, Scott H. Strauss – *Public Utilities Fortnightly* (December 2012).
- *Union Power in Public Utilities*, by Scott H. Strauss – *New Labor Forum* (June 2012).
- *The Constellation Experience: Ring-Fencing After the Subprime Meltdown*, by Scott H. Strauss, Peter J. Hopkins – *Public Utilities Fortnightly* (August 2010).

- *Are Utility Workforces Prepared for New Demands?: Recommendations for State Commission Inquiries*, by Scott H. Strauss – National Regulatory Research Institute (January 2010).