



## Henry T. Kelly

Partner

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### About

With more than three decades of immersive industry experience, Hank Kelly is acutely aware of the unique legal, regulatory, and business challenges his telecommunications, energy, and public utility clients face.

Hank leverages his understanding of his clients' pressures and priorities and his equally in-depth grasp of the complex legal landscape in which they conduct business to provide frank, practical compliance counsel, and determined, strategic advocacy in contested matters.

Working closely with public and private companies ranging in size from start-ups to *Fortune* 100 businesses, Hank delivers guidance designed to identify, address, and resolve regulatory concerns arising from day-to-day operations, long-term strategic initiatives, business transactions, mergers, and acquisitions. Hank is personally committed to working with each client to enhance asset value, solidify return on investment, and protect market share.

Appreciated for his constancy, levelheadedness, honesty, and straightforward approach to communication both inside and outside of court, Hank is dedicated to presenting information and facts in an easily understood and effectual way.

Hank knows from experience that the drivers of competitive advantage vary from business to business. Consequently, he strives to identify and leverage each client's opportunities for growth while creating a cost-effective strategy that achieves commercial goals.

As the telecom and energy industries constantly change, Hank has proven highly effective in navigating the emerging terrain by synthesizing even the most outdated laws and regulations and applying them to cutting-edge technologies and progressive business models.

In his dispute resolution, traditional litigation, and public agency advocacy practice, Hank draws upon his practical know-how in dealing with the nuances and complexity of telecom and energy regulations.

Hank has successfully advocated his clients' positions in litigation claims and other matters involving intellectual property, class action defense, state and federal preemption, and actions to enforce state and federal telecom and energy laws. Hank's advocacy and actual trial experience is notable;

he has successfully argued cases before more than 10 state public service commissions and separately litigated enforcement actions in more than 14 federal court jurisdictions.

Named a Chicago Communications “Lawyer of the Year” by *Best Lawyers Magazine*, Hank is also ranked as a Tier 1 attorney in Communications by *Chambers USA: America’s Leading Lawyers for Business*; listed among *The Best Lawyers in America®* in Communications Law; included in the *US Legal 500* in the Telecoms and Broadcast—Regulatory section; selected as a Leading Lawyer in Illinois by *Crain’s Chicago Business*; and listed among Illinois *Super Lawyers*.

Hank has served as general counsel to the Illinois Power Agency, which oversees competitive electricity procurement by Illinois’ largest electricity distributors and monitors renewable energy portfolio procurement and demand response measures by the state’s electricity utilities. Throughout his tenure at the agency, Hank was involved in formulating, executing, and enforcing energy policy. As a result, he delivers the requisite experience and viewpoint needed to craft viable and functional solutions for even the most difficult challenges.

## Experience

Represented two national wireless providers challenging on constitutional grounds the imposition of state surcharges on certain wireless services.

Represented a Broadband Internet Access Service (“BIAS”) provider in compliance with FCC rules, and the acquisition of a wireline communications company.

Represented a nationwide communication company in collecting unpaid switched access charges.

Represented a national communications provider in a patent infringement case involving a patent related to communications traffic exchange.

Represented a national communications provider in numerous multi-jurisdiction state public service proceedings seeking interconnection terms and conditions between competitive carriers.

Represented a national communications provider in arbitrations seeking interconnection under Section 252 of the Federal Communications Act with local exchange carriers in 13 state public service commissions.

Represented a venture capital fund in the due diligence related to its \$1 billion acquisition of a wireless communications service provider.

Represented an international communications provider in due diligence related to an offshore communications company.

Represented entities accused of assisting and facilitating other companies’ telemarketing efforts in providing autodialing services, claimed to be in violation of the Telemarketing Sales Rules and TCPA.

Represented telecommunications carriers responding to several complaints in Pennsylvania, California and Texas federal courts alleging violations of the TCPA.

Represented a nationwide service provider in a class action in Illinois federal court, alleging violations of the Satellite Home Viewer Extension and Reauthorization Act (SHVERA), which requires certain companies to destroy personally identifiable information.

Representing a telephone company in a consumer class action in Connecticut federal court. The suit

alleged that the company placed telemarketing calls using an autodialer to a number registered on the national Do Not Call Registry, in violation of the TCPA.

Represented a company before the Federal Communications Commission in its investigation that addresses how the FCC would interpret and apply the TCPA.

Represented a broadcast satellite service provider in litigation initiated by the FTC and the states of North Carolina, Illinois, Ohio and California in the Central District of Illinois, seeking civil penalties for violations of the FTC's Telemarketing Sales Rule for alleged calls placed to telephone numbers listed on the Do Not Call Registry and the provider's internal Do Not Call list, and for calls made by independent third-party retailers.

Provided advice and counsel on TCPA regulations to a producer of digital communication products.

Represented companies in successfully resolving several class action lawsuits alleging unauthorized charges for premium services to wireless telephone subscribers.

Represented a nationwide association of communications providers in a federal action seeking collection of compensation required under Section 276 of the Federal Communications Commission.

Represented a state association in actions seeking to enforce state and federal communications policies related to the pricing of local exchange services. The actions were pending at the Federal Communications Commission, several state public service commissions and several state courts of appeals.

Represented a national communications provider in four simultaneous federal court proceedings seeking the enforcement of interconnection agreements and Federal Communications Commission decisions.

Represented several communications providers in negotiations with municipalities regarding emergency telephone service surcharges.

Represented a coalition of communications providers in multistate jurisdictions arbitrating the rates, terms and conditions for interconnection under the FCC's Triennial Review Order and Triennial Review Remand Order, i.e., Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 with Illinois Bell Telephone Company to Amend Existing Interconnection Agreements to Incorporate the Triennial Review Order and the Triennial Review Remand Order, on behalf of Cbeyond Communications, LLC; USXchange of Illinois, LLC, d/b/a ChoiceOne Communications; First Communications, LLC; ICG Telecom Group, Inc.; New Edge Network, Inc.; nii Communications, Ltd.; OnFiber Carrier Services, Inc.; Talk America, Inc.; and Trinsic Communications, Inc.

Represented a coalition of communications providers in state public service commission proceedings establishing the cost-based rates for unbundled network elements.

## Honors

Ranked as a leading practitioner in the Communications area by *Chambers USA* from 2002-2026. Ranked as a Tier 1 attorney in Communications.

Named "Lawyer of the Year," *The Best Lawyers in America*® (Woodward/White, Inc.), Communications Law, 2013, 2018, 2020 and 2022.

*The Best Lawyers in America*© (Woodward/White, Inc.), Communications Law, 2012-2023.

Recommended in *US Legal 500* for his work in the Telecoms and Broadcast-Regulatory area, 2012-2014, 2016-2018 and 2020-2026.

Designated as a Leading Lawyer in Illinois by *Crain's Chicago Business*.

Listed in Illinois *Super Lawyers*, 2007-2010, 2012-2023.

Recognized as a Leading Lawyer in Illinois by *Leading Lawyers*.

## Affiliations

Federal Communications Bar Association

Chicago Bar Association

## Related Services

Communications

Energy

Litigation

Technology

Telephone Consumer Protection Act (TCPA) Defense

## Education

John Marshall Law School, J.D.

University of Illinois - Urbana, B.A.

## Admissions

Illinois

District of Columbia

## Courts

U.S. Supreme Court

U.S. Court of Appeals-Seventh Circuit

U.S. District Court-Northern District of Illinois