

Challenges in recovery

New uncertainties for Pittsburgh's rebounding energy companies

INTERVIEWED BY ADAM BURROUGHS

“There is a gradual phased recovery in the energy industry surrounding Pittsburgh,” says Matt A. Jarrell, Chair of the Energy and Natural Resources Services Group at Sherrard, German & Kelly P.C. He is seeing a healthy demand response to the low prices and a bleeding away of the excess supply of natural gas that created a glut.

“That many energy companies in the region are in a position to capitalize on that recovery is largely attributable to the efforts and resourcefulness of those companies who have managed themselves creatively and with discipline through the recent downturn,” says LuAnn Datesh, a Director at Sherrard, German & Kelly P.C. “Those companies that have been smart and strategic in navigating the downturn give us ample reason for optimism.”

However, as the industry rebounds, businesses will encounter a wide range of complicated legal issues surrounding increased oil and gas production, midstream construction, new safety regulations, financing constraints and environmental compliance considerations.

Smart Business spoke with Jarrell and Datesh about Pittsburgh's energy market and the legal obstacles that could impede growth if ignored.

What are the legal challenges companies might face through the anticipated rebound?

Uncertainty is the biggest concern. Companies and their investors are looking closely at the political bodies imposing environmental regulations and recent court decisions, and they are not quite sure how it will shake out. Uncertainty has made it difficult for operators and ancillary businesses to prepare and make capital and operational plans for the coming years.



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Municipal and other land use regulations, as well as new pipeline safety and drilling regulations have fostered a level of unpredictability that did not previously exist. Many in the industry are also waiting to see how recent decisions of bankruptcy courts will affect the legal landscape.

How might new pipeline safety issues and the Sabine bankruptcy ruling factor in?

Production, gathering and midstream operators need to understand the new Pipeline and Hazardous Materials Safety Administration regulations, which, among other things, broaden the range of facilities that fall under the administration's jurisdiction. Companies need to get ahead of these regulatory changes and consider how they will be interpreted and applied by regulators and, eventually, the courts.

The Sabine bankruptcy ruling is a classic example of how one court decision can undermine what everyone in the industry understood to be fact — that certain types of pipeline agreements and dedications of midstream capacities ran with and were part of the land. The Sabine court's holding that some commitments by producers of gas reserves to pipeline operators do not run with the land, and are therefore obligations subject to discharge in bankruptcy, carries significant implications. If the Sabine decision is followed more generally by other

courts, it will affect how investors evaluate midstream opportunities, what collateral is acceptable to lenders, how operators finance and manage their assets, and how their creditors manage their own risks. Fundamentally, Sabine will change the dynamic between producers and midstream companies and will affect the structure and content of their agreements going forward.

What can companies in this industry do that could help them manage uncertainty?

Companies know their businesses better than anyone. But when they need legal help, they benefit most from a relationship with counsel who understand this industry — not just regulatory, land or pipeline issues, but how all the business facets in this industry landscape fit together.

A sense of partnership with the people who are providing a professional service can be valuable because counsel becomes invested in the whole of the relationship, not merely discrete problems. Companies appreciate dealing with counsel who understand the industry and its relationship to their goals.

As the energy industry recovers, there are new opportunities and challenges that companies will encounter. The best path to success is to work with counsel who are knowledgeable partners and who help to navigate uncertainties and anticipate new obstacles in practical and effective ways. ●

THE DOWNTURN IS OVER. WHEN THINGS START TO HEAT UP, WILL YOUR TEAM BE READY?



At Sherrard, German & Kelly, P.C., the approach to the practice of law is simple and direct: We provide responsive, high-quality and cost-effective legal services to help our clients navigate uncertainties in the energy market. We have the experience and resources that every industry needs.



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