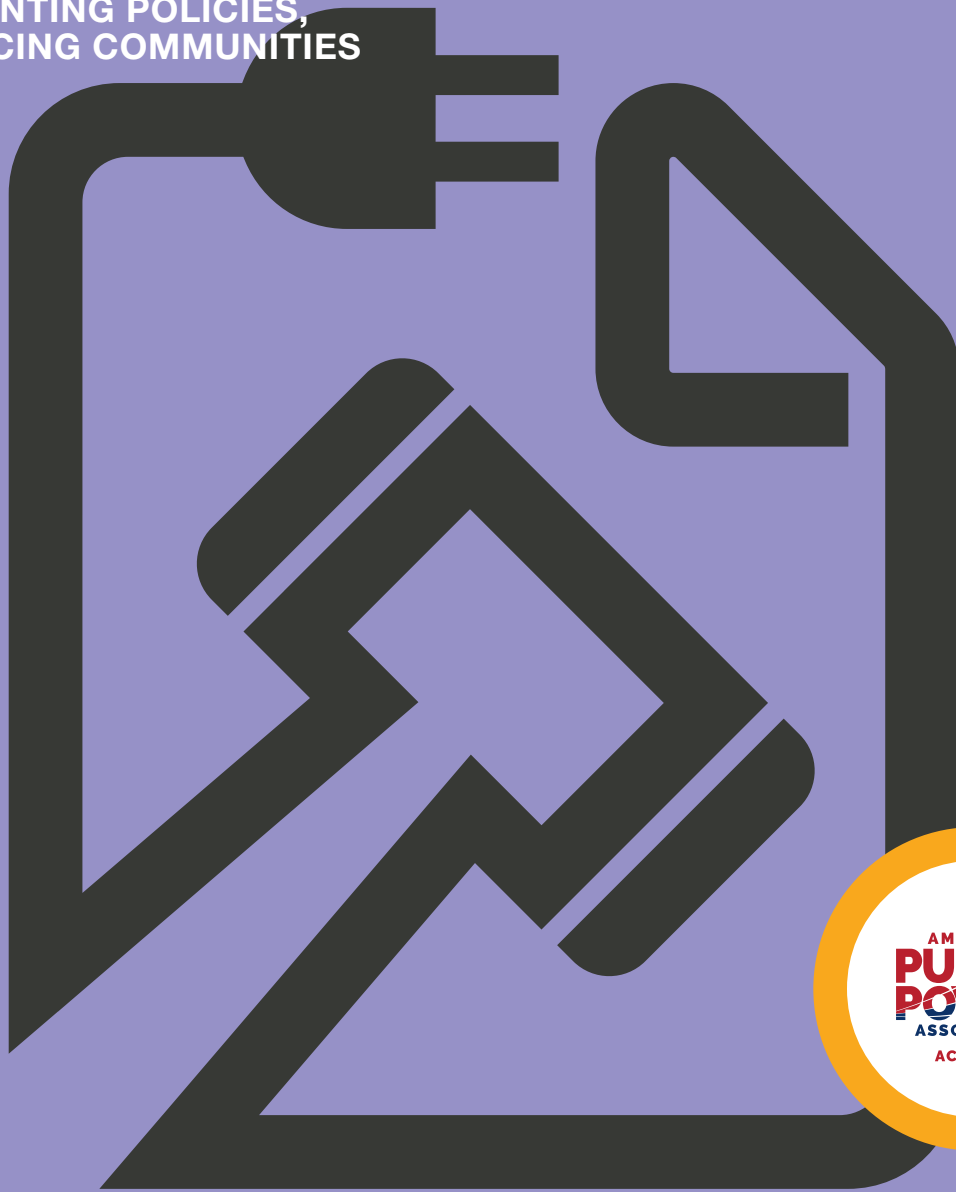


LEGAL & REGULATORY Conference

October 8-11, 2017 | New Orleans, Louisiana

IMPLEMENTING POLICIES,
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AGENDA at a Glance

Sunday, Oct. 8

PRECONFERENCE WORKSHOPS

- 8:30 a.m. – Noon NERC Reliability Compliance
- 1:30 – 5 p.m. Pole Attachments Law and Practices
Environmental Issues Roundtable
- 5:30 – 7 p.m. Welcome Reception

Monday, Oct. 9

- 7 – 8:15 a.m. Women in Public Power Networking Breakfast
- 7:30 – 8:30 a.m. Networking Continental Breakfast
- 8:30 – 9 a.m. Welcome & Board Chair Address
- 9:15 – 10:45 a.m. Lessons Learned from a Deadly Gas Pipeline Explosion
- 11 a.m. – Noon **BREAKOUT SESSIONS**
- Public Power Participation in Western Power Markets
 - Cybersecurity Preparedness and Supply Chain Risk Management in the Electric Sector
- 1:30 – 2:15 p.m. **BREAKOUT SESSIONS**
- Decarbonization: The End of RTO Mission Creep?
 - Contract Drafting & Negotiations: Part 1
- 2:30 – 3:15 p.m. **BREAKOUT SESSIONS**
- FERC's Storage and Distributed Energy Resources Aggregation NOPR
 - Contract Drafting & Negotiations: Part 2
- 3:30 – 4:15 p.m. **BREAKOUT SESSIONS**
- PURPA: The Impact on Markets and Renewables
 - Hot-Button Labor Issues in the Current Political Climate
- 4:30 – 5:15 p.m. **BREAKOUT SESSIONS**
- Emerging Technologies: A Threat to Reliability?
 - Legal Issues with Random Drug Testing for Employees
- 5:15 – 6:30 p.m. Reception

Tuesday, Oct. 10

- 7 – 8:15 a.m. Breakfast Panel: A Manager’s Really Bad Day
- 7:30 – 8:30 a.m. Networking Continental Breakfast
- 8:30 – 9:30 a.m. Federal Regulatory and Legislative Update
- 9:45 – 10:45 a.m. **BREAKOUT SESSIONS**
- Direct Renewable Access
 - Protecting Your Utility Against Vendor Bankruptcies
- 11 a.m. – Noon **BREAKOUT SESSIONS**
- Public Power Transmission: Still Not a Level Playing Field
 - Clean Water: (De)regulation and Litigation in the New Administration
- 1:30 – 2:15 p.m. **BREAKOUT SESSIONS**
- Federal Hydropower Panel
 - Electrifying the Transportation Sector
- 2:30 – 3:15 p.m. **BREAKOUT SESSIONS**
- Navigating the Transmission Boom
 - Recent Electric Utility Trends from a Tribal Perspective
- 3:30 – 4:30 p.m. Ethics and Technology
- 4:30 – 5:30 p.m. Young Professionals Happy Hour

Wednesday, Oct. 11

- 7:30 – 8:30 a.m. Networking Continental Breakfast
- 8:30 – 9:15 a.m. **BREAKOUT SESSIONS**
- Wholesale Transmission Rates: Impact of Emerging Issues
 - How New FEMA Changes Impact Public Power
- 10:30 – 11:30 a.m. **BREAKOUT SESSIONS**
- Green Energy Tariff Designs
 - Structuring a Successful Outsourcing Contract
- 10:30 – 11:30 a.m. Recent Developments in Legal Ethics



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PRECONFERENCE WORKSHOPS

Workshops require separate registration and fees.
Sign in at the beginning of each workshop for CLE credit.

Sunday, October 8

8 a.m. – 6:30 p.m. • Registration & Information Desk • Lafayette Foyer

8:30 a.m. – Noon

NERC Reliability Compliance: Risk-Based Enforcement, Updating your Internal Compliance Program, “Above-and-Beyond” Investments, and Current NERC Initiatives

SALON 1

Hear from a NERC representative and two seasoned NERC practitioners about some of the most important issues in NERC compliance. The workshop includes four parts and will cover the ins and outs of the risk-based enforcement process; tips for updating your entity's internal compliance program; the pros and cons of alternatives to paying penalties if a registered entity is found to have violated a NERC reliability standard; and what you should know about what's going on at NERC now. Discuss the most current — and most confusing — NERC initiatives, and get answers to your most pressing NERC compliance questions.

Lisa Gast, Shareholder, Duncan, Weinberg, Genzer & Pembroke, Washington, D.C.; **Ed Kichline**, Senior Counsel and Director of Enforcement Oversight, North American Electric Reliability Corporation, Washington, D.C.; and **Gregg Ottinger**, Partner, Duncan & Allen, Washington, D.C.

1:30 – 5 p.m.

Pole Attachments Law and Practices: Wireless Attachments and Other New and Emerging Developments

SALON 1

Legislation has been introduced in more than two dozen states to impose wireless pole attachment regulations on public power utilities, and the Federal Communications Commission has initiated proceedings to remove what it perceives as state and local barriers to wireless deployment. Join this workshop to get an in-depth review of the current state of the law and the obligations of public power utilities on wireless attachments, and other emerging pole attachment issues, such as one-touch make-ready initiatives. Discuss the lessons learned from a public power utility that has proactively developed attachment agreements and policies to address these new challenges.

Jim Baller, President, and **Sean Stokes**, Principal, Baller Stokes & Lide, Washington, D.C.; and **Gary Vondrasek**, Program Manager, Wireless/Wireline, JEA, Jacksonville, Florida

1:30 – 5 p.m.

Environmental Issues Roundtable

BROADMOOR

This roundtable is not eligible for CLEs or other continuing education credit. This event is open only to direct employees of APPA member utilities, joint action agencies, or state/regional associations.

Participate in an informal roundtable discussion on the latest environmental regulations affecting public power utilities. Meet with other environmental professionals to talk about current topics and hear updates from public power colleagues on regulatory issues and current projects. Topics will include the Clean Power Plan, effluent limitation guidelines for steam electric generators, coal ash and more.

Joel C. Beauvais, Partner, Latham & Watkins, Washington, D.C.; **Derek Bertsch**, Staff Attorney, Missouri River Energy Services, Sioux Falls, South Dakota; **Mark Matus**, Director, Environmental Services, Lansing Board of Water & Light, Michigan; **Brandy Olson**, Director, Legal & Regulatory, Muscatine Power & Water, Iowa; and **Carolyn Slaughter**, Director, Environmental Policy, American Public Power Association, Arlington, Virginia



5:30 – 7 p.m.

Welcome Reception

COURTYARD, LEVEL 3

Enjoy hors d'oeuvres and drinks while you reconnect with old friends, meet new people, and network with public power lawyers and professionals from across the nation.

MONDAY, OCTOBER 9

7 a.m. – 6 p.m. • Registration & Information Desk • Lafayette Foyer

Women in Public Power Breakfast

7 – 8:15 a.m. • **BROADMOOR**

Join your colleagues to discuss the growing influence of women in public power. Make connections, share challenges and opportunities, and ignite conversations.

Adrienne Clair, Partner, Thompson Coburn LLP, Washington, D.C.; and **Leslie James**, Executive Director, Colorado River Energy Distributors Association, Phoenix, Arizona

Presiding: Delia Patterson, Acting Senior Vice President of Advocacy & Communications and General Counsel, American Public Power Association, Arlington, Virginia

Networking Continental Breakfast

7:30 – 8:30 a.m. • **LAFAYETTE FOYER**

Sponsored by **GRIDLIANCE**

Start your day off right at this informal networking breakfast. No speakers or moderators — just a chance to visit with your peers.

Welcome & Board Chair Address: Keeping People the Priority in Public Power

8:30 – 9 a.m. • **LAFAYETTE BALLROOM**

As public power utilities adapt to changing business models and incorporate new technologies, it is important not to lose sight of our reason for being: the communities we serve. Public power utilities do not simply cater to ratepayers or manage load - we interact with people who want choices and outstanding service. From prioritizing customer education to bolstering strong operational, financial, and human resources - hear what part you play in ensuring the industry is community and customer-focused.

Walter Haase, Chair, American Public Power Association Board of Directors, and General Manager, Navajo Tribal Utility Authority, Fort Defiance, Arizona

Presiding: Jody Lamar Finklea, Chair, American Public Power Association Legal Section, and General Counsel and Chief Legal Officer, Florida Municipal Power Agency, Tallahassee, Florida

Break

9 – 9:15 a.m.

Lessons Learned from a Deadly Gas Pipeline Explosion: Record Fines, Felony Convictions, Corporate Misconduct and Regulatory Overhaul

9:15 – 10:45 a.m. • **LAFAYETTE BALLROOM**

A natural gas pipeline that ruptured in September 2010 led to a fire and explosion that killed eight people, injured 66 others, destroyed 38 homes and damaged dozens more in San Bruno, California. Federal and state investigations revealed serious internal and external auditing flaws as well as risk management and record keeping failures at the utility, Pacific Gas and Electric Company, its regulating agency, the California Public Utilities Commission (CPUC), and the Federal agencies charged with oversight of pipeline safety. These failures led to a record \$1.6 billion penalty against PG&E, the largest fine ever levied against a utility in the U.S. In addition, in August 2016, a federal court jury convicted PG&E of one felony count of obstructing the federal probe of the blast and five felony counts of knowingly violating pipeline safety laws before and after the disaster. All damages, fines, settlements, liabilities, and remedial costs could exceed \$10 billion. Hear from a San Bruno city official and the special counsel who represented them in the extensive legal, regulatory, and crisis management issues. Their work has helped to establish new benchmarks for how utilities and their internal processes will pay for safety failures, and how government regulatory agencies will be scrutinized. Learn about the practical legal and community relations issues the city faced.

Connie Jackson, City Manager, City of San Bruno, California; and **Britt Strottman**, Principal and Chair of Public Utilities and Crisis Management Practice Groups, Meyers Nave, Oakland, California

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

Break

10:45 – 11 a.m.

BREAKOUT SESSIONS

11 a.m. – Noon

Breakout Sessions

Public Power Participation in Western Power Markets

SALON 1

Public power utilities have participated in the CAISO for years, but most operate outside this organized market. Many have begun exploring opportunities to expand their participation in regional markets, considering the issues it might raise for public power. This panel will review market developments in the west — Platte River's participation in a joint dispatch agreement with several IOUs; public power participation in a possible mountain west organized market; and the decisions by the BANC, Seattle City Light, and Salt River Project to participate in the energy imbalance market run by CAISO.

Craig Johnson, Deputy General Counsel, Platte River Power Authority, Fort Collins, Colorado; **Harvey Reiter**, Partner, Stinson Leonard Street, Washington, D.C.; **Jim Shetler**, Director, Balancing Authority of Northern California, Sacramento, California; and **Rob Taylor**, Senior Director, Regulatory Policy & Public Involvement, Salt River Project, Phoenix, Arizona

Presiding: Andrew Neuman, Vice Chair, American Public Power Association Legal Section, and Assistant General Counsel, New York Power Authority, White Plains, New York

Cybersecurity Preparedness and Supply Chain Risk Management in the Electric Sector

LAFAYETTE BALLROOM

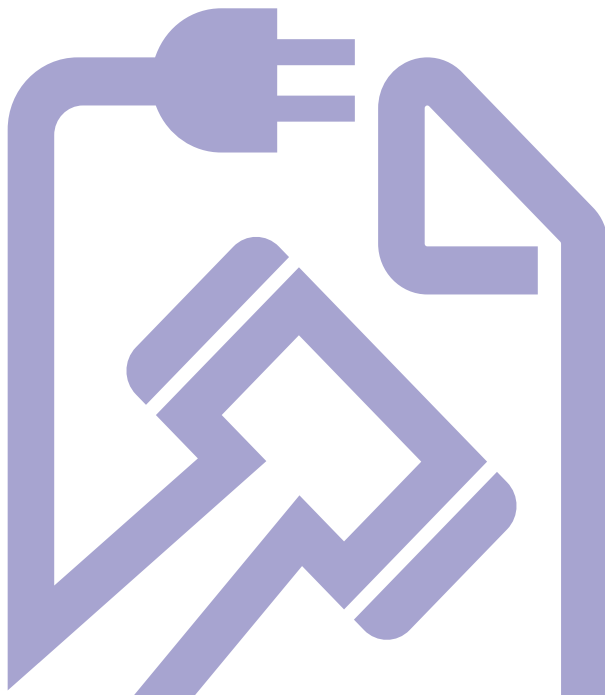
Cyber challenges are not going away. Power outages, service disruptions, ransomware, denial of service attacks, destructive malware, theft of sensitive operational and business information, and breaches of employee or customer personal information are growing concerns for electric utilities. Get an update on the cybersecurity threat environment and the law, and review preparedness and risk management. Discuss how to engage the board and C-suite on cybersecurity and privacy issues. Get best practices to update your information security policies, manage risks associated with third-party vendors, engage with the government and private entities on information sharing, update your incident response plan and what you need to know about the Cybersecurity Information Sharing Act of 2015, as well as recent Executive Orders.

Kevin Jones, Partner, **Randall Parks**, Partner, and **Paul Tiao**, Partner, Hunton & Williams, Washington, D.C.

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

Noon – 1:30 p.m.

Lunch (on your own)



BREAKOUT SESSIONS

1:30 – 2:15 p.m.

Breakout Sessions

Decarbonization: The End of RTO Mission Creep?

SALON 1

State efforts to decarbonize power supply are viewed by FERC and merchant generators as an existential threat to FERC's "organized" capacity auction construct. In the wake of *Hughes v. Taken Energy Marketing*, how real is the threat? In the absence of a federal decarbonization policy, from where does FERC's regulatory mandate originate? Can FERC hold back the tide of state efforts to decarbonize to support price outcomes in capacity auctions? Explore the boundaries of FERC jurisdiction under FPA Section 201(b)(1), post-*Hughes*, and the implications for public power.

John Coyle, *Managing Partner, Duncan & Allen, Washington, D.C.*

Presiding: Andrew Neuman, *New York Power Authority*

Contract Drafting & Negotiations: Part 1

LAFAYETTE BALLROOM

Learn the most effective ways to analyze and draft key provisions in agreements in this interactive session. Review sample provisions in agreements and engage in a group discussion on the flaws in such provisions. Discuss common mistakes in negotiating, how to handle difficult negotiators, and how to respond to negotiating tactics that are designed to convince you to concede.

Alan Fishel, *Partner, Arent Fox, Washington, D.C.*

Presiding: Jody Lamar Finklea, *Florida Municipal Power Agency*

2:15 – 2:30 p.m.

Break

2:30 – 3:15 p.m.

Breakout Sessions

FERC's Storage and Distributed Energy Resources Aggregation NOPR: Jurisdictional Challenges

SALON 1

FERC's recent notice of proposed rulemaking to regulate RTO treatment of transmission- or distribution-level storage facilities, as well as other distributed energy resources, raises a basic jurisdictional issue: who has authority to regulate such resources – FERC or the states? What will happen if FERC's proposed rule is implemented? Learn about precedent on FERC jurisdiction over distribution-connected resources and implications for the operation of distribution-connected storage. Hear about the impact of public power decisions that allow distribution-level resources to participate in organized RTO wholesale electricity markets.

William Huang, *Partner, Spiegel & McDiarmid, Washington, D.C.*

Presiding: Andrew Neuman, *New York Power Authority*

Contract Drafting & Negotiations: Part 2

LAFAYETTE BALLROOM

Continue to refine your contract development and negotiation skills in the second half of this hands-on session.

Alan Fishel, *Partner, Arent Fox, Washington, D.C.*

Presiding: Jody Lamar Finklea, *Florida Municipal Power Agency*

3:15 – 3:30 p.m.

Break

BREAKOUT SESSIONS

3:30 – 4:15 p.m.

Breakout Sessions

PURPA: The Impact on Markets and Renewables

LAFAYETTE BALLROOM

This two-part presentation describes recent developments in implementation and enforcement of the Public Utility Regulatory Policies Act. It explains how electricity markets may impact purchasers and sellers under PURPA, and outlines strategies for managing PURPA procurement and working with resource developers. Discuss how the Trump administration may impact FERC's PURPA policies, and how PURPA applies to distributed generation resources. Examine the interrelationship between distributed generation and PURPA, and how public power utilities can address the push to develop renewable resources using PURPA.

David Fitzgerald, Partner, Schiff Hardin LLP, Washington, D.C.; **Meg McNaul**, Partner, and **Rebecca Shelton**, Associate, Thompson Coburn, Washington, D.C.

Presiding: Andrew Neuman, New York Power Authority

Hot-Button Labor Issues in the Current Political Climate

SALON 1

Significant potential shifts in labor law under the Trump administration may present challenges to employers of both unionized and non-unionized workforces. Review cases and updates on case law, including joint employer issues, social media issues, and cases where the National Labor Relations Board has found violations/no violations. Discuss hot-button topics for employers, review critical background information to understand restrictions imposed by the National Labor Relations Act, and explore how NLRB rulings impact your day-to-day operations.

Dominic Cecere, Partner, Stinson Leonard Street, Minneapolis, Minnesota

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

4:15 – 4:30 p.m.

Break

4:30 – 5:15 p.m.

Breakout Sessions

Emerging Technologies: A Threat to Reliability?

SALON 1

Basic operating services like frequency response, ramping/balancing, and voltage support, which rely on the historic resource mix for adequate sourcing, are threatened by emerging technologies, including distributed energy resources. Join us for an update on the NERC Essential Reliability Services Working Group's efforts to examine measures and monitor these conditions.

Brian Evans-Mongeon, President and CEO, Utility Services, Inc., Waterbury, Vermont

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

Legal Issues with Random Drug Testing for Employees

LAFAYETTE BALLROOM

Random drug testing is required for certain public power employees under Department of Transportation regulations and for those employees having a commercial driver's license. But other employees often occupy safety sensitive positions, such as access to critical infrastructure or confidential customer information, where mistakes and inattention are costly. Do these considerations justify random drug testing? Unlike private companies, random drug testing by public employers may implicate constitutional limitations under the Fourth Amendment. Get a framework to analyze such policies. Explore what activities are safety sensitive, who is subject to random testing, and what substances may be considered in testing.

Craig Johnson, Deputy General Counsel, Platte River Power Authority, Fort Collins, Colorado; and

Hance Price, Staff Attorney, Frankfort Electric & Water Plant Board, Kentucky

Presiding: Andrew Neuman, New York Power Authority

5:15 – 6:30 p.m. • FRENCH QUARTER BAR

Reception Kick back at this informal reception. Make connections, relax with your colleagues and have a drink with the experts.

TUESDAY, OCTOBER 10

7 a.m. – 4 p.m. • Registration & Information Desk • Lafayette Foyer

Breakfast Panel: A Manager's Really Bad Day: Crisis Scenarios

7 – 8:15 a.m. • **BROADMOOR**

This interactive panel will explore how to handle a manager's worst nightmares: your largest customer going out of business, employees or board members engaging in unethical activities, and a breach of your IT system or customer records. Grab your continental breakfast and participate in a guided discussion among public power managers, counsel, and support staff as they walk through some hypothetical scenarios based on real world experiences. Each scenario will include a discussion of best practices, reporting obligations, and other considerations.

David DeSalle, Partner, Rubin & Rudman, Washington, D.C.

Networking Continental Breakfast

7:30 – 8:30 a.m. • **LAFAYETTE FOYER**

Make the most of your time away with this informal breakfast. All conference participants are welcome.

Federal Regulatory and Legislative Update

8:30 – 9:30 a.m. • **LAFAYETTE BALLROOM**

Hear an overview of the latest FERC regulatory issues of interest to public power, including energy and capacity market matters, and recent proposed rulemakings and orders. Discuss the implications from recent significant court decisions affecting public power and get an update on critical issues for public power to act on in the 115th Congress.

John McCaffrey, Regulatory Counsel, **Delia Patterson**, Acting Senior Vice President of Advocacy & Communications and General Counsel, and **Desmarie Waterhouse**, Vice President of Government Relations & Counsel, American Public Power Association, Arlington, Virginia

Presiding: Andrew Neuman, New York Power Authority

Break

9:30 – 9:45 a.m.

BREAKOUT SESSIONS

9:45 – 10:45 a.m.

Breakout Sessions

Direct Renewable Access: Meeting Customer Demand for Carbon-Free Resources in the Public Power World

LAFAYETTE BALLROOM

Major corporations now increasingly demand access to carbon-free generation. These demands have produced contractual and regulatory changes in the industry. Learn about these developments and the opportunities and pitfalls they present for public power. Discuss how direct access contract models — developed in the investor-owned utility world — can be adapted to public power. Hear how public power utilities are helping large customers meet their carbon-free goals for energy-intensive loads, and learn how to address potential problems like cost shifts and stranded assets.

Celina Bonugli, J.D., Research Analyst, Global Energy Programs, World Resources Institute, Washington, D.C.; and **Eric Christensen**, Attorney, Cairncross & Hempelmann, Seattle, Washington

Presiding: Andrew Neuman, New York Power Authority

Protecting Your Utility Against Vendor Bankruptcies

SALON 1

The past two years have seen several bankruptcy cases that impact community-owned utilities. Coal suppliers, an independent power producer, a nuclear power company, and many large retail customers have all sought relief under bankruptcy laws. Explore bankruptcy concepts, discuss how they affect public power utilities, and learn techniques to protect your utility when your vendors have issues.

Darrell Clark, Partner, and **Tracey Ohm**, Counsel, Stinson Leonard Street, Washington, D.C.

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

10:45 – 11 a.m.

Break

11 a.m. – Noon

Breakout Sessions

Public Power Transmission: Still Not a Level Playing Field

LAFAYETTE BALLROOM

Join this focused discussion on the difficulties smaller public power utilities have in reasonably integrating into RTOs. Examine supportive FERC policies on zonal placement and other issues that would encourage public power participation and filling in the “donut holes” of existing RTO footprints. Hear perspectives from public power utilities in the MISO, PJM, and SPP regions as well as an independent company that partners with public power utilities to explore mutual transmission expansion opportunities.

Beth Emery, Senior Vice President, General Counsel, GridLiance, Chicago, Illinois (Moderator); **C. Jason Carter**, City Attorney, City of North Little Rock, Arkansas; **Pauline Foley**, Assistant General Counsel, PJM Interconnection, Audubon, Pennsylvania; **Debra Roby**, Attorney, Jennings, Strauss & Salmon, PLC, Washington, D.C.; and **Heather Starnes**, Attorney, Healy Law Offices, Little Rock, Arkansas

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

Clean Water: (De)regulation and Litigation in the New Administration

SALON 1

Get an overview of key pending Clean Water Act rulemakings and litigation affecting the power sector, including the Waters of the United States Rule, the Steam Electric Effluent Limitation Guidelines, and high-impact citizen suit litigation on coal ash impoundments, total maximum daily loads, water quality standards, and related issues.

Joel C. Beauvais, Partner, Latham & Watkins, Washington, D.C.

Presiding: Andrew Neuman, New York Power Authority

Noon – 1:30 p.m.

Lunch (on your own)

BREAKOUT SESSIONS

1:30 – 2:15 p.m.

Breakout Sessions

Federal Hydropower Panel

LAFAYETTE BALLROOM

Restructured utility business models are altering the landscape of the energy business and federal hydropower is struggling to maintain its competitiveness in some regions of the country. The power marketing administrations and U.S. Army Corps of Engineers and Reclamation are exploring opportunities to retain and improve the federal hydropower product value, while continuing to provide the nation and millions of people with clean, renewable, and affordable energy. Learn more about this interagency effort and explore the current issues and opportunities facing the federal hydropower program.

Daniel Rabon, National Hydropower Business Line Manager, U.S. Army Corps of Engineers, Washington, D.C.;

Barbara Smith, VP National Relations, Power Marketing Liaison Office, Southeastern Power Administration and Southwestern Power Administration, Washington, D.C.; and

Max Spiker, Senior Advisor for Hydropower, U.S. Bureau of Reclamation, Washington, D.C.

Presiding: Andrew Neuman, New York Power Authority

Electrifying the Transportation Sector: Challenges, Strategies and Opportunities

SALON 1

New long-range electric vehicles are expected to flood the market over the next few years and charging technology is rapidly advancing, yet utility programs for infrastructure deployment are not keeping pace. The recent Volkswagen settlements mean considerable funds will be available to utilities to cover some of the costs of installing charging infrastructure. Explore utility programs to support EVs, the challenges to implementing such programs, and strategies to minimize risk of unneeded investment while leveraging the EV market. Examine opportunities to apply for investment funds to expand alternative fuel vehicle projects and use of zero emission vehicles.

Matthew Rudolphi, Shareholder, Duncan, Weinberg, Genzer & Pembroke, Washington, D.C.; and **Mary Anne Sullivan**, Partner, Hogan Lovells, Washington, D.C.

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

2:15 – 2:30 p.m.

Break

2:30 – 3:15 p.m.

Breakout Sessions

Navigating the Transmission Boom: Toward a Customer Bill of Rights

LAFAYETTE BALLROOM

Recent industry, regulatory, and policy trends have resulted in a transmission “boom” — with corresponding increases in transmission rates. Discuss the drivers and how customers can respond. FERC has recently reaffirmed that transmission providers must comply with Order No. 890’s suite of transmission planning principles, which includes stakeholder involvement, openness, and transparency. When transmission providers have not complied with these principles for all their transmission planning, customers have found ways to fight back and bring us closer to truly comprehensive transmission planning.

Adrienne Clair, Partner, Thompson Coburn, Washington, D.C.; and **Katharine Mapes**, Partner, Spiegel & McDiarmid, Washington, D.C.

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

Recent Electric Utility Trends from a Tribal Perspective

SALON 1

Native American tribes occupy a unique position in public power. They are sovereign governments, land managers, utility enterprise managers, electricity generators, transmission owners, and customers. Tribes have historically not had a role in running their electric utility. But a few tribes now operate successful, expanding electric utilities and many others nationwide are engaging in comprehensive long-range planning, with energy as one critical segment. Learn how rapidly evolving market environments, technology advances, and reliability considerations are all relevant to these efforts.

Amy Mignella, Representative of Aha Macav Power Service and Ak-Chin Energy Services, Maricopa, Arizona

Presiding: Andrew Neuman, New York Power Authority

3:15 – 3:30 p.m.

Break

3:30 – 4:30 p.m.

Ethics and Technology

LAFAYETTE BALLROOM

Technology and the internet can modify the way a lawyer practices, affecting communication, practice management, and data storage. Conversely, choosing not to use new technologies may also raise questions regarding if a lawyer is meeting their obligation to practice with competence and diligence. Examine your obligations related to using technology and the ethical issues that may arise in your day-to-day practice — from communication, confidentiality, and safekeeping of property/information, to supervising vendors and overseeing service agreements.

Eric K. Barefield, *Ethics Counsel, Louisiana State Bar Association, New Orleans, Louisiana*

Presiding: Andrew Neuman, *New York Power Authority*

4:30 – 5:30 p.m.

Young Professionals Happy Hour

DAVENPORT LOUNGE

Meet up with other young professionals from public power utilities and law firms at a relaxing, fun, pay-your-own-way happy hour. Whether you are young or just young-at-heart, come share a drink and plan the future.

WEDNESDAY, OCTOBER 11

Networking Continental Breakfast

7:30 – 8:30 a.m. • LAFAYETTE FOYER

Take this opportunity to make some more connections so you can keep the conversations going after the conference at this final, informal breakfast.

8:30 – 9:15 a.m.

Breakout Sessions

Wholesale Transmission Rates: Impact of Emerging Issues

BROADMOOR

Explore how emerging issues could affect wholesale transmission rates. Examine developments on return on equity, including whether the combination of FERC's income tax allowance policy and methodology for establishing returns on equity could result in double recovery of taxes or recovery of phantom taxes. Review developments in regional cost allocation methodologies and impacts on beneficiary determinations. Discuss recent proposals for changes in cost-recovery mechanisms in organized markets, including cost treatment of non-transmission alternatives and methods for measuring transmission usage to account for distributed energy resources.

Jason Gray, Shareholder, and **Bhaveeta Mody**, Shareholder, Duncan, Weinberg, Genzer & Pembroke, P.C., Washington, D.C.

Presiding: Andrew Neuman, New York Power Authority

How New FEMA Changes Impact Public Power

LAFAYETTE BALLROOM

Public power utilities are eligible to receive FEMA assistance after a federally declared "major disaster" for debris removal, power restoration, and damaged facility restoration. Disaster assistance is subject to special eligibility rules that FEMA and the OIG are enforcing far more strictly than in years past. Get an overview of recent and anticipated changes that may impact eligibility and reimbursements for public power. Learn about procurement requirements under the Super Circular. Find out how to avoid common mistakes which can lead to disallowance of funding, how to appeal, and how to prepare for an audit.

Ernest Abbott, Of Counsel, Baker Donelson, Washington, D.C.; and **Wendy Huff Ellard**, Shareholder, Baker Donelson, Jackson, Mississippi

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

9:15 – 9:30 a.m.

Break

9:30 – 10:15 a.m.

Breakout Sessions

Green Energy Tariff Designs

LAFAYETTE BALLROOM

Green tariffs allow utilities to offer large retail customers the opportunity to purchase renewable energy and related attributes from specific generating facilities at fixed rates under long-term contracts. Green tariffs expand the choices available to retail customers with their own renewable power goals and are growing in popularity. This presentation will describe the key design features of emerging green tariffs and provide examples of green tariffs utilities use to supply renewable power to large retail customers.

Andrew Art, Senior Counsel, Duncan, Weinberg, Genzer & Pembroke, Washington, D.C.; and **Celina Bonugli, J.D.**, Research Analyst, Global Energy Programs, World Resources Institute, Washington, D.C.

Presiding: Andrew Neuman, New York Power Authority

Structuring a Successful Outsourcing Contract

BROADMOOR

Contracting out work involves a host of business and legal considerations. Join this session to assess the pros and cons of outsourcing and walk through the legal aspects of the contracting process. Discuss strategies to avoid pitfalls in outsourcing work such as liability, indemnification, intellectual property, termination rights, dispute resolution, and compliance with applicable laws.

Milton B. Whitfield, Principal, DiMuro Ginsberg, P.C., Alexandria, Virginia

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

10:15 – 10:30 a.m.

Break

10:30 – 11:30 a.m.

Recent Developments in Legal Ethics

LAFAYETTE BALLROOM

As technology and business practices change, so do legal ethics guidelines and norms. When questions relating to legal ethics and technology, attorney-client relationships, and other obligations arise, you need to know where the latest guidance points. Join this session to get an update on the most recent guidelines and proposed changes, and discuss developments in legal ethics to explore emerging trends.

Dane S. Ciolino, Professor of Law, Loyola University New Orleans School of Law, Louisiana

Presiding: Jody Lamar Finklea, Florida Municipal Power Agency

11:30 a.m.

Conference adjourns

2017 – 2018 OFFICERS LEGAL SECTION

The American Public Power Association's Legal Section sponsors this annual meeting. We thank the officers who have been instrumental in planning and presenting this event.

SECTION OFFICERS



Chair
Jody Lamar Finklea
General Counsel and Chief Legal Officer
Florida Municipal Power Agency
Tallahassee, Florida



Vice Chair
Andrew Neuman
Assistant General Counsel
New York Power Authority
White Plains, New York



The **American Public Power Association** is the voice of not-for-profit community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 93,000 people they employ. Our association advocates and advises on electricity policy, technology, trends, training and operations. Our members strengthen their communities by providing superior service, engaging citizens, and instilling pride in community-owned power.



The **American Public Power Association's Academy** is public power's complete resource for professional education and certification, helping electric industry employees stay abreast of rapidly evolving technologies, regulations, and customer needs. Learn more about our conferences, webinars, special events, continuing education and custom in-house trainings at: www.PublicPower.org/Academy.

Accreditation

Continuing Legal Education (CLEs)

The American Public Power Association will apply for Continuing Legal Education accreditation in the following mandatory CLE states: Alabama, Alaska*, Arkansas, California*, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine*, Minnesota, Mississippi, Missouri, Montana*, Nebraska, Nevada, New Hampshire, New Jersey*, New Mexico, New York*, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

States denoted by an asterisk () will accept CLE credit hours for courses or activities held in and approved by other MCLE jurisdictions. The Association may not explicitly apply for CLE accreditation in these states if they have reciprocity with the state in which the meeting is being held.*

The number of CLE credits varies by state and is decided by each state CLE authority. The Association will provide any necessary documentation to receive CLE credit in these states.

To receive CLE credits for conference sessions, you must complete the CLE Attendance Record form (available at the registration desk). Turn in the top (white) form before you leave; the bottom (yellow) copy is for your records. We will report your attendance to the CLE authorities that require sponsor reporting based on these records, and will email Certificates of Attendance after the meeting.

Contact LegalConference@PublicPower.org or 202/467-2976 with any questions.

Other credits

Attendees can also earn other types of educational credits (CEUs, PDHs or CPEs) for your participation in this conference. To receive a certificate for these credits, complete the CLE Attendance Record form, and write "OTHER" at the top of the form. Turn in the form after the conference; we will send you a certificate listing the total CEU, PDH, and CPE value of all the sessions you attended.



Continuing Education Units (CEUs)

The American Public Power Association is accredited by the International Association for Continuing Education and Training (IACET) and is authorized to issue the IACET CEU. CEUs are only issued for sessions a minimum of 60 minutes in length. One CEU = 10 hours (600 minutes) of instruction time.

Professional Development Hours (PDHs)

The Association's educational practices are consistent with the criteria for awarding Professional Development Hours (PDHs) as established by the National Council of Examiners for Engineering and Surveying (NCEES). Course eligibility and number of PDHs may vary by state. One PDH = 60 minutes of instruction time.



Continuing Professional Education (CPE) Credits

The American Public Power Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Ave. North, Suite 700, Nashville, TN, 37219-2417. Website: www.NASBAregistry.org.

CPEs are only issued for sessions a minimum of 50 minutes in length. One CPE = 50 minutes of instruction time. Participants can earn up to 10.8 CPE credit hours for attending the conference (not including the preconference workshops). All sessions are intermediate-level, group-live offerings with no prerequisites, and no advance preparation necessary. All CPE-eligible sessions fall into one of these Areas of study: Communications and Marketing; Regulatory Ethics; or Specialized Knowledge. For more information regarding administrative policies, such as clarification of requirements, complaints, and refunds, contact EducationInfo@PublicPower.org.

Reliable Public Power Provider



Participating in Association-sponsored conferences is an easy way to earn points toward the Association's Reliable Public Power Provider (RP3®) designation. The RP3 program recognizes and rewards public power utilities that demonstrate basic proficiency in four important disciplines: reliability, safety, workforce development, and system improvement. For more information, visit www.PublicPower.org/RP3.

Mark Your Calendar



2018 Legal & Regulatory Conference

Oct. 7-10, 2018

Francis Marion Hotel

Charleston, South Carolina



2019 Legal & Regulatory Conference

Oct. 20-23, 2019

Portland Marriott Downtown Waterfront

Portland, Oregon

Tips & Reminders

Badges: Please wear your badge to all conference and social events.

Cell Phone Request: Please silence all mobile devices when in sessions so they do not interrupt speakers and distract the audience.

Conference Evaluation: Please leave your conference evaluation at the registration desk before you depart. We appreciate your feedback.

Conference Presentations: Copies of the speakers' presentations are available on our website, www.PublicPower.org, and through the conference app.

Dress: The attire for the conference is business casual. Since meeting room temperatures vary, please prepare to dress for cool conditions.

Grateful Appreciation: We are grateful to the officers, speakers and sponsors who help plan, present, and support this conference.

Guest Activities: Conference registrants may bring a guest to the evening receptions.

Restricted Sessions: We reserve the right to designate any meeting or session open only to APPA regular members (public power utilities, joint action agencies and state/regional associations), or to close any session to members of the press. Please inquire at the registration desk if you have any questions.

Antitrust Statement: We remind all those attending the Legal & Regulatory Conference that various state and federal laws prohibit the exchange of information among competitors regarding matters pertaining to price, refusals to deal, markets division, tying relationships and other topics that might infringe upon antitrust laws and regulations. No such exchange or discussion will be tolerated during the meeting. A copy of the Association's Statement of Compliance with the Antitrust Laws is available upon request.



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